

CONSERVATION COMMISSION MINUTES

Date: August 30, 2018
Time: 7:02-9:53 pm
Place: City Hall, Room 204

With a quorum present, the meeting opened with Ira Wallach presiding as Chair (left the meeting at 9:27); Susan Lunin presided thereafter.

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

Staff Present: Jennifer Steel

Members Absent: Dan Green

Members of the Public: See sign-in sheet

DECISIONS

I. WETLANDS DECISIONS

1. NOI – DEP File #239-813 – 326 Fuller Street (Brae Burn Country Club) -- paddle tennis

- **Request:** Applicant is proposing add new and renovate existing paddle tennis courts at Brae Burn Country Club and expand the existing warming hut in the paddle tennis area.
- **Owner/Applicant:** Sean McLaughlin (gen. mgr.) **Rep.:** Sarah Stearns (PWS, Beals & Thomas)
- **Documents Presented:** colored plans, planting schedule plans, photos, draft OOC
- **Jurisdiction:** Buffer Zone to bank of an intermittent stream: 301 CMR 10.53(1) and City Flood Zone
- **Presentation (Sarah Stearns) and Discussion**
 - **Note:** abutter notification is not required for projects on parcels <50 acres with no abutters to the work area.
 - **Project Summary:** To accommodate increased demand and more year-round opportunities, applicant is proposing to move one of the existing paddle tennis courts 18ft west and add two (2) new ~30' x 60' paddle tennis courts to accommodate increased membership to the Country Club. The applicant is also proposing to expand the existing warming hut by roughly 400 s.f. All construction is framing on sonotubes.
 - **Impact Summary**
 - Overall, there will be an increase in developed area of 3495 s.f., most of which comes from the two newly proposed paddle tennis courts, but most of the increase is pervious decking.
 - The expansion of the warming hut does not increase the amount of developed area, since the hut is being expanded over existing decking.
 - Applicant is proposing to remove 5 oak trees and 1 locust tree (96 caliper inches), and 7 blueberry shrubs during this construction. (N.B. Applicant is working closely with Newton Tree Warden.) Applicant is proposing to plant 32 trees (96 caliper inches) and 33 shrubs of various native species as mitigation.
 - The banks of the streams will not be affected by the construction.
 - Loss of mature trees is unfortunate, but the robust replanting plan is generous in its scale, diversity, and scope.
 - Since the City floodplain is an arbitrary 30 feet wide, not an elevation, there is no way to calculate flood storage lost. The area has never flooded. The construction with in the floodplain is limited to sonotubes and siding.
 - Snow is melted to allow play year-round. Meltwater drains through the decking
 - **Vote:** to close the hearing and issue an OOC with the following special conditions (Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0).



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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Prior to the start of work

21. The applicant must schedule and attend a pre-construction site visit to review:
 - a. Sedimentation/erosion controls (properly installed in the correct locations)
 - b. DEP File number sign (minimum size 2'x2', clearly visible from the street)
 - c. Proof of Recording the Order
 - d. Contact information for those responsible for construction, sediment controls, and landscaping
 - e. Anticipated timelinePresent should be:
 - f. Applicant or Applicant's Representative(s)
 - g. Applicant's Construction Supervisor (person responsible for compliance with this Order and who may be held jointly responsible for any violations and the penalties under the law for said violations)
 - h. Agent(s) of the Commission
22. Erosion control barriers (staked straw wattles) shall be augmented with snow fence to better serve as a limit of work.

During Work

23. To compensate for the loss of mature trees, the proposed planting plan must be executed as presented, and 75% of trees and 75% of shrubs must survive two growing seasons for a Certificate of Compliance to be issued.

After Work

24. An as-built plan signed by the engineer certifying compliance with the approved plans and order must be submitted.
25. A letter from a landscape architect certifying compliance with the approved planting scheme must be submitted. A Certificate of Compliance shall not be issued until after two growing seasons after plantings have been installed and found to be well established.

Perpetual Conditions Specific to this Project that shall not expire upon completion of the project or the issuance of a Certificate of Compliance

26. To protect wildlife and/or vernal pool species, artificial lighting shall be designed to prevent lighting of the wetlands. Any outdoor lights added as part of this project within 200 feet of the wetland shall be directed so as not to radiate light towards those areas. Any lights added as part of this project shall be limited to no more than 1,800 lumens per fixture and the fixture shall not illuminate any part of the wetland more than 0.2 footcandles. Exterior lights shall not be mounted higher than 25 feet above the ground.
27. Required mitigation planting areas shall be maintained in perpetuity in their predominantly natural condition.

2. NOI – DEP File #239-812 – 326 Fuller Street (Brae Burn Country Club) -- wet well and pump house

- Request: Applicant is proposing to build a new wet well and pump house to replace the current pumping system.
- Owner/Applicant: Sean McLaughlin Representatives: Sarah Stearns, Beals & Thomas
- Documents Presented: colored plans plans, photos, draft OOC
- Jurisdiction: Buffer Zone to Bank
- Presentation (Sarah Stearns) and Discussion
 - **Note**: abutter notification is not required for projects on parcels <50 acres with no abutters to the work area.
 - **Project Summary**
 - The applicant is proposing to construct a new wet well and pump house to replace the existing antiquated system with a commonly used pump system that will draw water from the existing irrigation pond.
 - Applicant's is currently undertaking replacement of all irrigation pipes (under a negative RDA). As part of the evaluation of the irrigation system, it was discovered that the pumping system for the irrigation does not meet OSHA and building code requirements and needs to be replaced.
 - The existing vault system is proposed to be removed during the construction of the new system. The existing system includes one intake point for an 18" pipe that feeds the existing vault system.
 - The proposed system includes a 30" PVC pipe (~80') with a 36" screen intake box, a 4-inch flush line, subsurface electrical utility connections, and the concrete apron/walkway that will connect the pump house entrance to the existing cart path. The new irrigation pipe will penetrate the existing stone masonry lining of the pond at the existing intake point; no new access point is needed. The intake pipe

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will run along the bottom of the stone-lined irrigation pond with supports every 15 ft, the supports are de minimus and have not been tabulated as an impact. The 4-inch flush line will sit in an existing access point at a higher level than the intake.

- This project will not require review by the DEP under the Water Management Act since applicant is not proposing to increase the size of the irrigation system and are not expected to increase water usage.
- There was discussion about whether the increased intake would cause animals to be sucked into the intake pipe. With no connection to the nearby stream, there is little wildlife and the intake pipe will be elevated off the bottom and the mouth of the intake will be protected with a screen.
- The pump house is being tucked into the hillside.
- **Impact Summary:**
 - All work is within turf grass and a paved cart path. The pond is man-made and not connected to the stream.
 - The proposed project will increase impervious area by roughly 520 s.f. (the pump house and surrounding concrete slab, which supports the pumphouse above the wet well).
 - The proposed project will require drawdown of the irrigation pond through the existing outlet system. The water from the drawdown will be used as irrigation water and the pond will not be allowed to fill for the duration of the project.
 - There will be roughly 20ft of trenching needed to lay the pipes and electrical utilities between the pond and the existing paved cart path. Trench excavate (trench 5' wide, 14' deep, 60' long) should be stored in a protected stockpile area or a truck.
 - Work is not expected to impair the stability of the pond wall, the groundwater or surface water quality, or the capacity of the pond to provide wildlife habitat functions.
 - Applicant is not proposing any mitigation plantings because no trees are due to be disturbed. Applicant will return all disturbed areas to prior condition (turf grass or cart path).
 - The applicant has stated that by expanding the diameter of the intake pipe and by increasing the size of the pumps, more water can be delivered through the system faster, allowing all watering to occur over night, thereby reducing total water use.
- **Vote:** to close the hearing and issue an OOC with the following special conditions (Motion: Susan Lunin; Second: Jeff Zabel; Vote: 6:0:0).

Prior to the start of work

21. The applicant must schedule and attend a pre-construction site visit to review:
 - a. Sedimentation/erosion controls (properly installed in the correct locations)
 - b. DEP File number sign (minimum size 2'x2', clearly visible from the street)
 - c. Proof of Recording the Order
 - d. Contact information for those responsible for construction, sediment controls, and landscaping
 - e. Anticipated timelinePresent should be:
 - f. Applicant or Applicant's Representative(s)
 - g. Applicant's Construction Supervisor (person responsible for compliance with this Order and who may be held jointly responsible for any violations and the penalties under the law for said violations)
 - h. Agent(s) of the Commission
22. Plans that must be provided to the Conservation Office in advance of construction
 - a. Dewatering plans and accommodations: If dewatering on the project site is required, the Applicant shall provide to the Conservation Commission for review and approval prior to dewatering a dewatering plan designed to limit and control any effects of dewatering on the wetlands resource area adjacent to the project site.
 - b. Concrete washout plans and accommodations: If any concrete work will occur on the site, the Applicant shall provide to the Conservation Commission for review and approval prior to washouts a concrete washout plan designed to limit and control any effects of concrete washouts on the wetlands resource area adjacent to the project site. No concrete washout station for the Project shall be located in the Wetlands Resource Area or the Buffer Zone.

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- c. Stockpiles of soil or other unconsolidated debris shall occur within a truck or a pile protected with properly installed erosion controls, either entrenched silt fence or staked compost socks.
23. The Applicant shall protect the oak tree near the new wet well site (and its roots) during construction. If the tree dies or declines significantly within the 3-year period of the order of conditions, the applicant shall replace it with 2 native canopy saplings of roughly 2 caliper inches.

After Work

24. An as-built plan signed by the engineer certifying compliance with the approved plans and order must be submitted to qualify for a Certificate of Compliance (see condition #36 below).

3. NOI (cont'd) – DEP File #239-807 – 53 Brandeis Road -- single-family home

- Request: Applicant is proposing to remove an existing single-family home (with associated deck and driveway) and rebuild a new single-family home, with associated deck and driveway.
- Owner/Applicant: Esther Dezube (53 Brandeis Rd, LLC) Representatives: Mikhail Deychman and Karon Skinner Catrone
- Documents Presented: old plans, photos, draft OOC
- Jurisdiction: Buffer Zone
- Discussion
 - At the 8/9/18 meeting, the Commission signed the OOC conditional upon confirmation of Engineering's approval of the drainage system (the applicant assured the Commission that Engineering had approved the drainage plans). Those statements were checked by Staff who were told by the Engineering Department that no plans were submitted to Engineering for the 53 Brandeis project and that the City standards do require all infiltration systems to be 10' off the property lines.
 - Conservation staff sent an email to the applicant and their team on 8/10/18 detailing this issue and required the applicant to provide a complete NOI submission including, "full-sized stamped plans, 11x17" copies of the plans, pdfs of plans, drainage details and calculations, and all other appropriate/requisite documentation" in one package, at one time. These materials were required to be submitted to the Conservation Office by the two-week revised materials deadline of 8/16/18.
 - The Conservation Office has received no revised materials and no communication from the 53 Brandeis applicant team as of the time this agenda was sent out.
 - The public hearing was closed, so cannot be continued. The project cannot be permitted with the current plans. The project must be denied since *the condition for issuance of the Order of Conditions was not met*.
- Vote: to deny the Notice of Intent since *the condition for issuance of the Order of Conditions was not met*. (Motion: Norm Richardson; Second: Ellen Katz; Vote: 6:0:0).

4. Enforcement Order – 33 Wayne Road – DEP file #239-811 -- single family home

- Request: Conservation Staff are requesting that the Commission ratify the Enforcement Order issued against 33 Wayne Road for unpermitted tree and shrub removal.
- Owner: Carmine Petruziello Representative: John Rockwood (EcoTec, Inc.)
- Documents Presented: annotated colored plans, EO and cover letter photos, Enforcement Order
- Presentation (John Rockwood and Carmine Petruziello) and Discussion:
 - The Newton Conservation Commission office was made aware of tree cutting at 33 Wayne Road on the morning of 8/21/18 by a concerned citizen. In response to the call, staff made a site visit at around 12pm on 8/21/18 and discovered a dumpster containing cut vegetative matter, leftover woodchips on the ground, and numerous fresh stumps of both trees and shrubs. It is important to note that:
 1. On August 9, 2018 the development team appeared before the Newton Conservation Commission.
 - a. The development team was told that the proposed plans did not comply with wetland regulations at all and would have to be substantially modified to be approved (i.e., it was made abundantly clear that there was no permission for work within the Riverfront Area.
 - b. A follow-up email from me noted Conservation Commission concerns about clear mis-truths presented to the Commission at that initial public hearing.

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- c. Despite these Commission concerns and communications, every tree within Riverfront Area on the property was cut to the ground.
 - 2. Several of the cut trees were over 8” (the threshold for a Newton Tree Ordinance permit) however no permit application was submitted and no permit was secured. Since this was the second offense in 3 months, fines have been issued by the City’s Tree Warden.
 - 3. A demolition permit has not been secured from the Inspectional Services Department, so a Stop Work Order has been issued by the Building Inspector.
 - Staff have been in contact with the owner who has been cooperative. Staff reached the owner via phone and discussed the unpermitted tree removal. The owner stated that he was trying to get a “step ahead” by making space for construction fencing but admitted that he had made a big mistake and was forthcoming and cooperative with staff’s decision to issue an Enforcement Order and requirement that he appear before the Commission on August 30, 2018.
 - A new team has been employed to “make everything right”. Site has been re-surveyed. 6 trees >8” were cut within RFA. John Rockwood has been hired to develop a plan to bring the site into compliance with the RFA regs.
 - Vote: to ratify and amend the Enforcement Order issued on 8/21/18 by Conservation Staff, to require that the owner submit a restoration planting plan to the Conservation office for review and approval by the Conservation Commission by September 25, 2018 (Motion: Norm Richardson; Second: Jeff Zabel; Vote: 6:0:0).
- 5. OOC Extension & Minor Plan Change – DEP File #239-739 – 31 Williams Street -- garage**
- Recusal: Ellen Katz, homeowner, recused herself from this discussion/decision.
 - Request: Applicant is requesting an extension for OOC #239-739 to allow for more work to be done on the property. The proposed minor plan change is the addition of a 12’ by 20’ garage abutting the driveway.
 - Owner/Applicant: Ellen Katz and Jay Werb Representative: none
 - Documents Presented: colored plans photos, draft extension form, draft memo re minor plan change
 - Jurisdiction: Minor activity exemption: 10.02(2)(b)(1)(e) or Riverfront Area
 - Discussion:
 - **Project Summary**: Applicant is proposing to construct a 12’x20’ detached garage (on a 4” concrete slab) adjacent to the existing driveway over existing lawn. The project would involve the removal of the shed on the property and the planting of one white oak as mitigation. (Note: All of the required mitigation plantings done under this OOC have survived except for 1 blueberry; the applicants have planted several additional native plants in the area.)
 - **Impact Summary**: The project would result in a net increase in impervious area of 80 s.f., since an existing shed will be removed.
 - Vote: to extend the Notice of Intent three years (Motion: Jeff Zabel; Second: Susan Lunin; Vote: 6:0:0).
 - Vote: to approve the garage construction/shed removal as a minor plan change and require the planting of the oak tree (with survival for two growing seasons) and that the garage/shed changes be shown on the as-built. (Motion: Jeff Zabel; Second: Susan Lunin; Vote: 5:0:0).
- 6. COC – DEP File #239-705 – 32 Suffolk Road – lighting and planting**
- Request: Applicant is requesting a Certificate of Compliance for work done under OOC #239-705 for the resurfacing of an existing tennis court with lighting and a hitwall.
 - Owner/Applicant: Troy Sober Representative: Tom Gilbane
 - Documents Presented: colored plans photos, draft COC
 - Discussion: A staff site visit on 8/17/18 confirmed that not all permitted work was done, but that work that was done was in substantial compliance with the permit. The required state form, as-built, and landscaper’s letter have been received.
 - Staff Recommendations: Vote.
 - Vote: to issue a complete Certificate of Compliance noting that not all work was executed (Motion: Susan Lunin; Second: Judy Hepburn; Vote: 6:0:0).
- 7. COC – DEP File #239-481 AND DEP # 239-521 – 20 Charles River Terrace – driveway, infiltration system, planting plan**
- Request: Applicant is requesting a Certificate of Compliance for work done under OOC #239-239-481 which was then incorporated into #239-521.

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- Owner/Applicant: Roi and Talia Keren Representative: none
- Documents Presented: colored plans photos, draft COC
- Discussion: A staff site visit confirmed that all permitted work was finally done in substantial compliance with the permit. The required state form, as-built, and landscaper’s letter have been received. Plantings appear robust.
- Vote: to issue a complete Certificate of Compliance for 239-481 (Motion: Susan Lunin; Second: Judy Hepburn; Vote: 5:0:0).
- Vote: to issue a complete Certificate of Compliance for 239-521 (Motion: Norm Richardson; Second: Ellen Katz; Vote: 5:0:0).

II. CONSERVATION AREA DECISIONS

- 8. 300 Hammond Pond Parkway, Preservation of Webster Woods** – On 9/4/18 the full advisory panel will meet. On 9/13/18 there will be a CPC public hearing on the Commission’s application for \$100,000 for professional services (legal, appraisal, etc.) to support the protection of “Webster Woods”. Con Com members are invited to attend the CPC hearing. BC has submitted an application for a building permit for “yard” development and stormwater improvements to the rear parking lot. All work is outside the ConCom’s jurisdiction so only Engineering and ISD will review the application.

III. ADMINISTRATIVE DECISIONS

- 9. Minutes of 8/9/18 to be approved.**
- Documents Presented: draft minutes draft minutes
 - Vote: to approve the 8/9/18 minutes (Motion: Jeff Zabel; Second: Ellen Katz; Vote: 4:0:1).
- 10. Annual Plan?** – The Commission would like to create an annual plan and report. They will brainstorm at the next meeting, but possible initiatives/goals include: land acquisition, fines, policies, trees, and land management.

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

- 56 Farwell: Jill Provencal from DEP will be issuing a Superseding OOC shortly.

VI. CONSERVATION AREA UPDATES

- Norumbega and Saw Mill Brook. Claire painted over the rest of the graffiti.
- Saw Mill Brook. Dumping from construction site has been cleaned up. John Menard found an address on a pill bottle. Police have been involved, will increase patrols in the area, and have suggested new signs with state dumping fine amount (Con Com land use regulations state: “Dumping violations shall be punished in accordance with the provisions of General laws, Chapter 270, Section 16, as may be amended from time to time.”) Jennifer Steel will ask the Law Department to opine on fine structures and ask the TAB about whether Police Reports are still published.
- Norumbega slope restoration. We will put the project back out to bid in a couple of weeks; we have a list of contractors that may be more appropriate for and interested in the project.
- Old Deer Park. Bittersweet was cut way back, but mowing/brush-hogging is desperately needed.
- Encroachments. John Menard can plant shrubs and seed mix this fall as a special project.
- Seasonal staff. Staff are considering ways to increase efficiencies and seasonal work for more land management efforts (brush-hogging, planting, tree work, trail work).

VII. ISSUES AROUND TOWN UPDATES

- Climate Action workshops are in the works.
- ADA trail improvements project. Initial reconnaissance completed by two high school interns.
- Trails connectivity along the Charles. Volunteers received a grant to make improvements to the “Pony Truss Trail”. City is advocating for new and improved connections as part of the Riverside redevelopment project.

VIII. ADMINISTRATIVE MATTER UPDATES – none at this time

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

ADJOURN Vote: to adjourn at 9:53 (Motion: Jeff Zabel; Second: Norm Richardson; Vote: 5:0:0)

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