

CONSERVATION COMMISSION MINUTES

Date: January 7, 2021

Time: 7:02pm – 10:19pm

Place: This meeting was held as a virtual meeting via Zoom

<https://us02web.zoom.us/j/8429428454>

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

Members Present: Susan Lunin, Leigh Gilligan, Kathy Cade, Jeff Zabel, Ellen Katz

Members Absent: Judy Hepburn

Staff Present: Jennifer Steel and Claire Rundelli

Members of the Public: not recorded due to remote nature of the meeting

DECISIONS

I. WETLANDS DECISIONS

1. 122 Upland Avenue – RDA – new deck

- **Owner/Applicant:** George and Melissa Monokroussos **Representative:** Lulu Friedman, Didi Design Group
- **Request:** Issue DOA.
- **Documents Presented:** Colored plans, site photos, draft DOA
- **Jurisdiction:** BLSF (112' NAVD88), City Floodplain
- **Project Summary:** Construct a new 15' x 32' deck on the rear of house at the second story level. Only stairs and piers will be within the flood elevation.
- **Presentation (Melissa Monokroussos) and Discussion**
 - Applicant clarified that the deck is considered a second level deck (i.e., off the first floor but the home has a walk-out basement).
 - The proposed fill resulting from the new deck is roughly 18.5 cubic feet (including the stairs and piers), which is less than 1 cubic yard.
 - All work is proposed to occur above an existing patio and a small portion of lawn.
 - The applicant is proposing to install a native planting bed along the edge of the existing patio and plans to install a rain garden in the future. Staff requested some further clarification on the proposed interest for the rain garden and planting strip.
 - Commissioners raised some concerns about a lowered bed around the patio serving as a tripping hazard.
 - Commissioners felt that focusing on the rain garden as compensatory storage and not conditioning the planting strip was most appropriate.
- **Vote:** To issue a negative 3 determination (with the following special conditions). [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]
 - A 15' x 32' deck with stairs may be constructed as per the approved plans.
 - The deck must remain in compliance with the Commission's Guidelines for Construction in Flood Zone, which prohibit in perpetuity any enclosure of the space under the deck with skirting, mesh, lattice, etc. in any way that restricts or impedes the flow of floodwater (see the Guidelines for details). Such compliance must be confirmed for the completed deck through provision of photos to the Conservation Office.
 - A "rain garden" of at least 20 cubic feet of compensatory storage (roughly 5' x 8') must be installed and planted with native plants. Soil from the excavated area must be disposed of off-site and proof of disposal submitted to the Conservation Office. Recommended native species include: swamp milkweed, blue and red cardinal flower, butterfly weed, buttonbush, Lobelia, Joe-Pye weed, Black-eyed Susan, Clethra alnifolia, Chelone (turtlehead).

2. 40 Albemarle Road – cont'd NOI – teardown/rebuild single-family home – DEP File #239-880

- **Owner/Applicant:** Jeremy Osinski and Megan McHugh **Representative:** John Rockwood, EcoTec, Inc.
- **Request:** Issue OOC.



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
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- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - The demolition of the existing 1,047± square foot single-family house with one car garage and bulkhead and associated site features including paved driveway and front and side/rear walkways and stairs, and the removal of one 18" diameter spruce tree and two fruit trees (3 trees removed in total).
 - The construction of a 2,027± square foot single-family house with a two-car garage, front porch, and bulkhead; paved driveway; and front walkway and stairs with associated grading, lawn, and landscaping.
 - The project will result in 901± s.f. increase in total impervious area on the site.
 - Drainage improvements proposed include a trench drain, manhole sump, and two infiltration systems to accommodate driveway and roof runoff.
 - Two mitigation planting areas with a total of 13 saplings, 54 shrubs, and several types of groundcover are proposed, totaling 1,890± s.f. (a 2:1 ratio for the increase in impervious area).
- Presentation (John Rockwood) and Discussion
 - The applicant's representative provided a summary of the project (see above).
 - Commissioners asked for further detail about infiltration systems. The representative provided a description of the shallow stone filled systems (akin to septic leaching fields) and the trench drain and stated that the systems meet the City's requirements for volume and separation from groundwater. This reaffirms the favorable comments the Engineering Department sent to Conservation staff.
 - Conservation staff clarified that the staff comment in the 12/8/20 meeting agenda regarding the grading of the restoration areas was intended to result in beds that were substantially depressed.
 - The applicant's representative stated the mitigation areas are not designed to be rain gardens.
 - Staff responded that there is concern about runoff from this lot adversely impact the flooding that this area regularly experiences; the regrading of the mitigation areas would allow for not only mitigating any potential runoff but providing further on-site flood storage.
 - Conservation staff noted that depressed grading (i.e., a swale) should continue around the northern edge of the property to allow for runoff to be collected on site and not flow to the property to the north.
 - The applicant has made all requested changes based on Engineering's comments on the originally proposed and revised plans.
 - A sump pump is proposed and the details of its connection have been provided and preliminarily approved by Engineering. The applicant's representative clarified the details of the sump for the Commissioner's.
 - Staff noted that the patio (to be reinstalled in the rear yard once the infiltration system is installed) must be installed with the same spacing and bed material.
 - Commissioners and staff discussed the possibility of saving the large spruce, however the applicant and their representative stated their interest is in taking it down to avoid conflict with the proposed house and front walkway. There is also a drain line proposed from the infiltration under the driveway that would run within 5 feet of the tree.
- Public Comment
 - Sharon McGann (96 Nevada) – mentioned significant concerns about the infiltration systems impacting the groundwater level on her property which abuts the subject property.
 - *The applicant's representative provided clarification on how the infiltration system works and Commissioners clarified that groundwater will tend to move towards the brook and the river, but not exclusively so. The applicant's representative noted that the infiltration systems are small enough that "mounding" of groundwater on the lot will not be an issue.*
 - Sharon McGann (cont'd) – asked how the proposed removal of the trees was determined and how it will impact the way stormwater interacts with the site.
 - *The applicant's representative stated that the trees needed to be removed because their proximity to the construction would put them at risk of major damage. To be proactive, the trees are being removed, but a significant number of trees and shrubs will be planted in the mitigation areas.*
 - Sharon McGann (96 Nevada) – raised concerns about the impact of construction on dogwood trees on her property.
 - Julie and Scott Minkin (abutter) – stated their love for the spruce tree but understand the reasons it must come down. They brought up concerns about the impact on wildlife habitat, though they appreciate the mitigation plantings, and the groundwater/flooding impacts of the project.

- *Conservation staff stated that there have been discussions with two City Councilors regarding the flooding experienced along Cheesecake Brook. While the City portion of the stream is maintained with periodic dredging, the DCR portion of the stream may not be regularly maintained and may be the cause of some flooding. Staff noted that Councilor Albright is likely to speak with the Utilities Director, Ted Jerdee, regarding how maintenance can be better coordinated to help relieve flooding. Staff assured abutters that this project is not likely to demonstrably change the flooding experienced in the area.*
- Amy Guzman (abutter) – questioned how the removal of the spruce tree’s large root system and the replacement with a large number of smaller plants will impact the groundwater use in the area.
 - *Conservation staff clarified that the Commission does not have direct jurisdiction over groundwater but is limited to enforcing applicable Riverfront Area regulations. Trees do take up water for use, but they do not provide much “protection” against post-storm flooding as they do not rapidly absorb more water. The regulations do take into consideration the removal of large trees and allow for the time needed for mitigation planting areas to grow. The Commission can condition the type and size of the trees to ensure that as much root mass is provided as is practical. Commissioners also added that the increase in leaf coverage from the mitigation plantings will perhaps serve the area better in terms of rain capture than existing conditions provide.*
- Sharon McGann – requested more information regarding the limitations of the regulations for Riverfront Area that do not allow us to address flooding.
 - *Conservation staff provided further clarification on the difference between an area that floods and jurisdictional Bordering Land Subject to Flooding. Staff further stated that significant stormwater storage is being provided through the depression of the planting areas.*
- Stephanie Rogers (101 Nevada Street) – raised a question regarding how to ensure compliance with the planting plans that are approved.
 - *Conservation staff provided detail regarding the Certificate of Compliance process and perpetual conditions. The homeowner also stated that they do intend to maintain the planting area and that they understand the need to contribute to the neighborhood.*
- City Councilor Emily Norton – raised concerns that regulations have not caught up with the impacts of climate change and that a project like this, thought it may technically meet the regulations, will impact the overall flooding in the area. She requested the vote be put off to allow for further discussion and site visits.
 - *Commissioners noted that extensive discussion had occurred prior to the Councilor joining the meeting and reiterated that the Commission must implement the Wetlands Protection Act and regulations and cannot wait for new regulations to be put in place, that the project as proposed complies with the Act and regulations, and that additional floodwater storage is being provided.*
- Vote: To close the hearing and issue Newton’s standard Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]
 - A stabilized construction entrance must be created to minimize track of mud and silt onto the roadway.
 - The applicant must schedule and attend a pre-construction site visit.
 - A swale of at least 6 inches in depth and 1-2’ in width must be installed all along the northern property boundary to direct runoff to the smaller mitigation area fronting on Albemarle Road to alleviate runoff from the subject property to the adjacent property.
 - The patio, shown as to be replaced, must be installed on a fully pervious bed of pea stone with similar (1-2”) spacing between the stone pavers to maximize infiltration.
 - The permanent mitigation landscape plantings within Commission jurisdiction must:
 - a. Be installed in compliance with the approved plans and condition #36 (desired changes must be approved by the Conservation office in advance)
 - b. Stabilize all exposed areas
 - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
 - d. Have a survival rate of 75 % of total number of medium-larger shrubs (after 2 growing seasons)
 - e. Have a survival rate of 75 % of total number of smaller shrubs (after 2 growing seasons)
 - The top of mulch within the permanent mitigation landscape planting areas must be and remain in perpetuity at least 6” below the top of the adjacent lawn and sidewalk to facilitate infiltration and preclude stormwater runoff from leaving the site. The permanent mitigation landscape planting areas must be bounded with stone posts. Bounds must be buried roughly 3.5 feet and protrude at least 4” above the ground.

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- Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread (Note: This is due to be maintained as a naturalized area).
- The required Riverfront mitigation areas shall be maintained in perpetuity in their predominantly natural condition and bounded as per the approved plans.
- The approved stormwater Operations and Maintenance Plan is appended hereto and must be adhered to.

3. 145 Warren Street – NOI – renovation and additional units onto single-family home – DEP File #239-882

- Owner/Applicant: David Oliveri, Norton Point Warren St LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone
- Project Summary
 - Demolition of existing detached garage, renovation of the existing single-family home and construction of 3 additional units on the lot.
 - Stormwater management includes several infiltration systems, both in and out of Commission jurisdiction. The proposed system also includes an overflow outlet with a flared end within the 25' Buffer Zone.
 - An increase of 5,376 s.f. of impervious area is proposed over existing conditions for the entire lot. This proposal represents a decrease in impervious area of 607 s.f. from the currently approved plans. The new total increase of impervious area within Commission jurisdiction is 2,660 s.f.
 - Proposed to be removed within ConCom jurisdiction are 17 trees (10 of which exceed 8 caliper inches) totaling 131 caliper inches.
 - Proposed to be removed from the mitigation planting area are invasive Norway maple saplings and bush honeysuckles.
 - The mitigation planting plan within jurisdiction includes 35 saplings (both canopy and understory), 30 shrubs, and 55 1-gallon perennials.
- Discussion
 - Applicant requested a continuation to the 1/28/21 Commission meeting in order to develop revised landscape plans and address Engineering Department concerns.
- Vote: To continue the hearing to 1/28/21. [Motion: Leigh Gilligan; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

4. 116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824

- Owner/Applicant: Ilya Zvenigorodskiy
- Request: Vote on plan to bring site into compliance.
- Jurisdiction: BLSF
- Presentation (Ilya Zvenigorodskiy) and Discussion
 - The homeowner noted that the approved plans showed the intention to enclose/screen the deck area because the calculations for the net fill included screening.
 - The OOC stated: "To maintain the flood storage capacity of the site, the crawl space under the house may not be filled or enclosed or its grading altered." The homeowner stated that by enclosing the area under the deck, he is not in violation of this condition.
 - The homeowner did clarify that he was in error in enclosing directly the open foundation areas (the foundation areas not surrounded by deck) and that he proposes to remove all of the lath from 8' of opening in the foundation. By his calculations, that would provide 47% open flow area.
 - Staff admitted that they were in error in not clearly stating that the areas under the deck should also not be enclosed, because enclosure of the deck that surrounds the foundation would also enclose the crawl space under the house.
 - DEP notes that "unrestricted hydraulic connection" (akin to that required for BVW replacement in 10.55(4)) must be provided for all areas serving as flood storage. The Commission's new guidelines state that there should be an even distribution of 50% open space to allow unimpeded flow of flood waters, as is the intention of the state regulations.
 - The Chair emphasized the need to allow water to flow freely from all sides.
 - Commissioners, after much discussion, expressed their frustration in the lack of a proposed technical solution by the homeowner and their interest in seeing resolution in short order or they will discuss issuing an Enforcement

Order. They felt that they had been clear in what they were expecting to receive at this meeting and have offered a number of possible solutions.

- Conservation staff and Commissioners reiterated to the homeowner that conditions in an OOC supersede information on the plans.
- The Chair offered to speak with the homeowner offline and continue the discussion to a future hearing at which the homeowner will provide a technical solution.
- Consensus: To continue the discussion to a future meeting, to be determined by the homeowner and staff, at which the applicant will present a technical solution.

5. Preliminary Regulatory Discussion – Addressing Long-Term Infiltration System Function

- Request: Consider whether the ConCom wants to proactively investigate and address infiltration system function during frozen conditions and over time and/or whether a larger discussion with Engineering is in order.
- Jurisdiction: BLSF, RFA, BZ
- Discussion
 - Commissioners expressed an interest in an expert presentation to get better understand the stormwater infrastructure systems regularly approved by Engineering and used throughout Newton.
 - Staff will reach out to industry contacts to organize a presentation.

II. CONSERVATION AREA DECISIONS

6. Trailhead Signs

- Request: Improve wording and appearance
- Documents Presented: Photos
- Discussion
 - Appearance: A slightly larger font would be appropriate to make signs more accessible. Staff were informed by the production company that additional colors will not increase the price, so the next sign run will have a wider palette.
 - Wording on trailhead signs:
 - Staff stated, and Commissioners agreed, that the language on the non-trailed parcels does not need to be edited.
 - Commissioners expressed that while the nice language currently used is lovely, that simpler language in a more active voice would be clearer.
 - Commissioners are split on the bicycle prohibition language, but the consensus is that overall, the language should be included on the signs. Some Commissioners request that we keep in mind the potential for allowing bikes on certain trails in Webster Woods.
 - Language to remain includes: enjoy this nature reserve from dawn to dusk, remove dog waste, keep dogs leashed, no littering, no bicycles
 - Commissioners floated the idea of including a QR code on the sign to enable multi-lingual translations.
 - Commissioners requested that all our parcel names align with the Newton Conservators' names for parcels.
- Consensus: Staff will work on draft language and send it out to the Commission for approval at a future meeting and will begin to develop the more colorful maps.

7. Charles River Pathway Conservation Area Name Change

- Request: There is an interest in changing the name of the Charles River Pathway Conservation Area to the Riverwalk Conservation Area to avoid confusion with DCR's Charles River Pathway.
- Discussion
 - Commissioners were in agreement and noted the need to ensure that all public information (e.g., the Newton Conservators' website, the City GIS, etc.) be changed to be consistent.
 - Staff note that the Riverwalk trail is part of the larger DCR Charles River Pathway vision.
- Consensus: Staff will move forward with a name change to the "Riverwalk Conservation Area" and will reach out to the Conservators and City staff to coordinate the renaming.

8. Trail Counters

- Request: One of our volunteer stewards suggested placing trail counters at trail heads to get a sense of use and to support funding requests. "I wonder if you could buy 2 or so and stewards could set them up for about a month at

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their sites. It could give us all a sense of usage overall and how it varies by day of week, time, and weather. I wondered if you said "200K uses of Conservation lands each year" would that help the cause for the pieces of conservation land. Also, it could be used to assess the impact of improvements. Get a week of values before and after say the Dolan Pond improvements. Finally, it could give you a sense of where to target improvements. While all areas need maintenance, if a given piece of land has 10x users than another piece of land you might target trail improvements to the more popular one."

- Discussion
 - Staff felt a bit unsure of how these devices would be used and requested Commissioners think about the potential.
- Consensus: Due to the late hour, it was determined that the discussion should be continued to the next meeting.

III. ADMINISTRATIVE DECISIONS

9. Conservation Office Budget Review

- Request: Routine review of Conservation Commission funds, with a focus on Land Management funds.
- Documents Presented: Budget graphics
- Discussion: A summary of FY 2020 spending, a summary of current FY 2021 spending, and a chart showing distribution of funding across conservation areas has been provided for the Commission to review and discuss.

10. Minutes of 12/8/20 to be approved

- Documents Presented: Draft minutes
- Vote: To accept the 12/8/20 minutes as revised. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

IV. ISSUES AROUND TOWN DECISIONS – None at this point in time.

UPDATES

V. WETLANDS UPDATES

VI. CONSERVATION AREA UPDATES

- Houghton Garden – Hydroraking: Hydroraking is completed! The site is being buttoned up for the winter months. Restoration planting and final pathway restoration will occur in the spring.
- Charles River Pathway – Stairs: Contract has been signed; work will start in the spring.

VII. ISSUES AROUND TOWN UPDATES

- OSRP approval: The state is awaiting a complete ADA inventory for every PRC parcel. PRC staff are working to complete this effort.
- Christina Street Bridge Feasibility Study: Proposals are due January 15th. We are still waiting for the MBTA access license.
- Climate action implementation rolls along! Interviews for the Energy Coach position have concluded, and the MOU between the City and the utilities has been signed and initiated.

VIII. ADMINISTRATIVE UPDATES

- Remote meeting requirements from 940 CMR 29.00 (Open Meeting Law)
 - 29.10(4)(a) Commission members must be clearly audible
 - 29.10(6)(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location. (N.B. Agents are not subject to Open Meeting Law so need not be visible.)
 - 29.10(7)(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely
 - 29.10(7)(c) All votes must be by roll call
 - 29.10(7)(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

We can't require people to "sign-in" or identify themselves at in-person or remote public meetings.

We can require people to identify themselves if they wish to speak at a public hearing.

Agents of the Commission are not subject to Open Meeting Law, so members may contact the agents.

- Environmental Science Program: There continues to be discussion relating to the administration and support of the Environmental Science Summer Program; Parks, Recreation and Culture has declined to absorb the program.

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

11. 6 Aspen Avenue – COC – new single-family home with septic – DEP File #239-122

- Applicant/Representative: Bridgett Dennison, Stiles & Associates Law
- Request: Issue COC.
- Presentation and Discussion: This is a very old permit that was never closed out. The open permit was discovered as the house is being sold. An as-built was provided and site visit ensured the site is in compliance. The septic system was disconnected when the sewer was extended down Aspen Ave. Commissioners asked if it was clear how the septic was decommissioned. Staff said that they were not sure, but that it occurred roughly 6 years ago.
- Vote: To issue a complete COC. [Motion: Ellen Katz; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]

ADJOURN at 10:19. [Motion: Susan Lunin; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Zabel (aye), Cade (aye), Katz (aye). Vote 6:0:0]