



April 25, 2021

Newton Conservation Commission
Planning and Development Department
1000 Commonwealth Avenue
Newton, MA 02459

**Re: Notice of Intent
Jamie Ovadia
17 Wayne Road, Newton, MA**

Dear Commission Members,

On behalf of Jamie Ovadia, we are filing a Notice of Intent to demolish the existing house and to construct a new single-family dwelling a 17 Wayne Road, Newton. The proposed work is located within a 100-foot wetland buffer zone and within the Riverfront Area of Sawmill Brook, a perennial stream.

Existing Conditions:

The property contains 14,320 square feet and is located on the westerly side of Wayne Road, near the intersection of Vine Street. The lot was created by a plan dated January 2, 1957, registered in the Land Court section of the Middlesex County Registry of Deeds as Land Court Plan No. 20412 I. The property is in a residential neighborhood and contains a house that was constructed in 1961. The house is surrounded by driveway, walkways, lawn, landscaping with woods across the rear of the lot.

Wetland Delineation:

There are no wetlands on the site. There is a forested wetland, associated with Sawmill Brook, across the street from the property.

The wetland delineation of the site was performed on July 27, 2020, utilizing the regulations outlined in the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, § 40), the National List of Plant Species That Occur in Wetlands: Massachusetts 2012 and Hydric Soils in New England, May 1995.

The wetlands are marked with pink flagging numbered 20-1 to 20-10. The wetlands are characterized by an over story of Red Maple (*Acer rubrum*) and American Elm (*Ulmus americana*), a shrub layer of Highbush Blueberry (*Vaccinium corymbosum*) and a ground cover of Skunk Cabbage (*Symplocarpus foetidus*) and Cinnamon Fern (*Osmundastrum cinnamomeum*).

The upland areas are characterized by an overstory of Sugar Maple (*Acer Saccharum*) and Silver Maple (*Acer saccharinum*) and a ground cover of Garlic Mustard (*Alliaria petiolate*) and Bittersweet (*Clestrus scandens*).

The proposed work is located within the 100-foot Buffer Zone of the Vegetated Wetland and is therefore subject to the Massachusetts Wetlands Protection Act. The City of Newton does not have a wetlands protection ordinance. The project is located within the 200-foot riparian area of the Sawmill Brook, a perennial stream, and is therefore subject to the Rivers Protection Act.

Flood Plain and Natural Heritage:

The property lies within a zone X (un-shaded) as shown on the Flood Insurance Rate Map, Community-Panel Number 25017C0566E, effective date: June 4, 2010.

According to 2021 MassGIS, this project is not located within an Estimated Habitat of Rare Wildlife or a Priority Habitat of Endangered.

Project Description:

The property is 14,320 square feet in size and the front northeast corner (292 square feet) is located in the 100-foot wetland buffer zone. In addition, 8,350 square feet of the lot, is located in the Riverfront Area of Sawmill Brook; 292 square feet of inner riparian area and 8,058 square feet of outer riparian area. The paved right-of-way for Wayne Road and a wooded strip of Conservation land lie between the Sawmill Brook and the project.

The project includes the demolition of the existing raised ranch, driveway and walks and the construction of a new single-family dwelling with driveway, walkways and patio. The majority of the proposed work occurs within the Riverfront Area; a portion of the proposed patio extends outside the Riverfront Area. There will be a temporary disturbance of 7,450 square feet of riparian area during the construction of the new house, driveway, patio and utility installation. The total impervious area on site is proposed to be increased by 2,575 square feet from 2,361 square feet under the existing conditions to 4,935 square feet under the proposed project. The total impervious/degraded area within the Riverfront Area is proposed to be increased by 2,069 square feet from 2,361 square feet under the existing conditions to 4,430 square feet under the proposed project.

There are twenty-one (23) trees along the southerly side of the property, between the street and fence behind the house. Two of those trees, both 18-inch Oak, are dead (see attached letter from Bartlett tree) and will be removed. Two additional trees (a 15-inch Oak and a multi stem 15-inch Cedar) will be removed to construct the house. Tree protection will be provided for the remaining trees throughout the duration of the project.

Under existing conditions, the property is developed with a total impervious area of 2,361 square feet of house, driveway, and walkways with a stockade fence around the rear yard. The total 2,361 square feet of impervious area is located in the Riverfront area. The existing house is 118 ± feet, the existing driveway is 93 ± feet, and the existing walk is 102 ± feet from Sawmill Brook. There is no infiltration system for stormwater from the existing roof surface.

Under the proposed conditions, the property will be redeveloped with a larger house, walkways, a similar size driveway and a patio. The proposed project will result in a total impervious area of 4,935 square feet, of which 4,430 square feet is located in the Riverfront Area. This results in a 2,069 square foot increase of impervious area within the Riverfront Area. The proposed house is located 123 ± feet, the proposed driveway will utilize the existing driveway entrance and is 93 ± feet, the proposed walkway is 125 ± feet and the patio is 190 ± feet from Sawmill Brook.

Proposed Mitigation:

The proposed project is located within areas that are currently occupied by the existing house, driveway, walkway or lawn. A roof infiltration system will be installed to mitigate for the increase in impervious area as outlined in the City of Newton drainage requirements.

As mitigation for increased impervious surface in the Riverfront, there are four (4) areas of enhancement planting proposed for the project. Areas of the existing lawn totaling 2,075 square feet will be removed and enhanced planting areas will be created. A 655 square foot area of grass along southerly lot line, under the existing trees, will be removed and the area will be planted with shade tolerant shrubs and perennials. Two areas of lawn in front of the house, 570 square feet adjacent to the front walk and 220 square feet on the north side of the driveway will be planted with full/partial sun tolerant shrubs and perennials. A 630 square foot area of lawn along the northerly property line will be planted with partial sun/shade tolerant perennials and shrubs. The proposed planting schedule is provided on the design plan.

Proposed Erosion Control:

Project Access will be from the existing paved driveway entrance. Staked mulch sock will be installed as shown on the design plan prior to construction and will be maintained throughout the project. Upon completion of the project, all disturbed soils will be loamed and seeded. The erosion control will not be removed until the project is complete and the site is stabilized.

Regulatory Compliance:

Statement of Jurisdiction: 310 CMR: 10.58(4)

The project falls within the Riverfront Area of Sawmill Brook and the site is subject to review under section 10.58(4) of the Massachusetts Wetlands Protection Act. The following is an analysis of how the project meets the standards established in section 10.58(4) a-d:

(4) General Performance Standard. Where the presumption set forth in 310 CMR 10.58(3) is not overcome, the applicant shall prove by a preponderance of the evidence that there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in M.G.L. c.131 § 40 and that the work, including proposed mitigation, will have no significant adverse impact on the riverfront area to protect the interests identified in M.G.L. c. 131 § 40. In the event that the presumption is partially overcome, the issuing authority shall make a written determination setting forth its grounds in the Order of Conditions and the partial rebuttal shall be taken into account in the application of 310 CMR 10.58 (4)(d)1.a. and c.; the issuing authority shall impose conditions in the Order that contribute to the protection of interests for which the riverfront area is significant.

(a) Protection of Other Resource Areas. The work shall meet the performance standards for all other resource areas within the riverfront area, as identified in 310 CMR 10.30 (Coastal Bank), 10.32 (Salt Marsh), 10.55 (Bordering Vegetated Wetland), and 10.57 (Land Subject to Flooding). When work in the riverfront area is also within the buffer zone to another resource area, the performance standards for the riverfront area shall contribute to the protection of the interests of M.G.L. c. 131, § 40 in lieu of any additional requirements that might otherwise be imposed on work in the buffer zone within the riverfront area.

The project is located within the 200-foot Riparian Area of Sawmill Brook. There is a bordering vegetated wetland associated with the stream and there is 292 square feet of wetland buffer zone on the property. This area of buffer zone contains the existing driveway entrance. The proposed driveway entrance will not change. In addition, the area of lawn adjacent to the driveway will be removed and an enhanced planting area will be created. The driveway opening will not change and the replacement of existing lawn with the enhanced planting area is an improvement to increase the protection of the wetland buffer zone.

(b) Protection of Rare Species. No project may be permitted within the riverfront area which will have any adverse effect on specified habitat sites of rare wetland or upland, vertebrate or invertebrate species, as identified by the procedures established under 310 CMR 10.59 or 10.37, or which will have any adverse effect on vernal pool habitat certified prior to the filing of the Notice of Intent.

Based on MassGIS 2021 and the NHESP Atlas, 14th Edition, the site is not located within mapped Estimated Habitats of Rare Wildlife or Priority Habitats of Rare Species. There are no Certified Vernal Pools on or near the property. Therefore, this project will not impact the projection of Rare Species.

(c) Practicable and Substantially Equivalent Economic Alternatives. There must be no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on the interests identified in M.G.L. c. 131 § 40.

1. Current Proposal/Preferred Design:

The applicant's family is in need of a larger living space. They would like to create that with the property where they currently live. Expanding and renovating the current house that was constructed in 1961 is too costly. The plan is to demolish the existing dwelling and construct a larger house on the lot. The proposed dwelling has been moved 4.8 feet further from the stream and the expansion of the house is projected away from the stream.

2. No Build:

This alternative would not allow the applicant to update and renovate the property.

(d) No Significant Adverse Impact. The work, including proposed mitigation measures, must have no significant adverse impact on the riverfront area to protect the interests identified in M.G.L. c. 131, § 40.

1. The proposed project will have a total impervious area of 4,430 square feet (2,069 square feet of that area is currently impervious under the existing conditions). The total area of the lot in riverfront area is 8,350 square feet. While the project exceeds 10% of the riparian area; it does not exceed the 5,000 square feet threshold.
 - a. The condition of the 100-foot inner riparian area will remain the same pre and post construction, with this exception that there will be removal of existing lawn and enhancement planting adjacent to the driveway.
 - b. There is no requirement for stormwater management for the project based on the DEP Stormwater Policy, however, stormwater infiltration is being proposed as outlined by the City of Newton drainage requirements.
 - c. The project is not located within undeveloped riverfront area and the functional ability of the 100-foot riparian area will remain the same pre and post construction.
 - d. The project will utilize erosion control measures during construction. The roof runoff will be directed to a subsurface infiltration system.

Statement of Jurisdiction: 310 CMR: 10.58(5)

This project also falls under the 10.58(5) since it is a redevelopment of a previously developed Riverfront Area. The following is an analysis of how the project meets the standards established in section 10.58(5) a-h:

(5) Redevelopment Within Previously Developed Riverfront Areas; Restoration and Mitigation. Notwithstanding the provisions of 310 CMR 10.58(4)(c) and (d), the issuing authority may allow work to redevelop a previously developed riverfront area, provided the proposed work improves existing conditions...

(a) At a minimum, proposed work shall result in an improvement over existing conditions...

This project moves the house further from the stream, removes existing lawn area to provide enhanced planting areas and provides stormwater infiltration; resulting in an improvement over existing conditions.

(b) Stormwater management is provided according to standards established by the Department.

There is no requirement for stormwater management for the project based on the DEP Stormwater Policy, however, stormwater infiltration is being proposed as outlined by the City of Newton drainage requirements.

(c) Within 200 foot riverfront areas, proposed work shall not be located closer to the river than existing conditions or 100 feet, whichever is less...

The proposed house and walkways are located further from the river and the driveway is the same distance from the river as the existing driveway.

(d) Proposed work, including expansion of existing structures, shall be located outside the riverfront area or toward the riverfront area boundary and away from the river, except in accordance with 310 CMR 10.58(5)(f) or (g).

The house expansion is projected away from the river.

(e) The area of proposed work shall not exceed the amount of degraded area, provided that the proposed work may alter up to 10% if the degraded area is less than 10% of the riverfront area, except in accordance with 310 CMR 10.58(5)(f) or (g).

The proposed project exceeds the amount of the existing degraded area, the total area of proposed impervious area does not exceed 5,000 square feet and the increase in impervious area is mitigated through the removal of existing lawn to create enhance planting areas.

(f) When an applicant proposes restoration on-site of degraded riverfront area, alteration may be allowed notwithstanding the criteria of 310 CMR 10.58(5)(c), (d), and (e) at a ratio in square feet of at least 1:1 of restored area to area of alteration not conforming to the criteria...

This project does not propose to restore degraded riverfront area.

(g) When an applicant proposes mitigation either on-site or in the riverfront area...

This project is not restoring degraded riverfront area.

(h) The issuing authority shall include a continuing condition in the Certificate of Compliance for projects under 310 CMR 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area, except as may be required to maintain the area in its restored or mitigated condition...

A continuing condition will be required for the enhanced planting areas.

Statement of Jurisdiction: 310 CMR: 10.02(3)

This project also falls under the 10.02(3) since a portion of the proposed project is located in the 100-foot wetland buffer zone.

3. Activities within the buffer zone which do not meet the requirements of 310 CMR 10.02(2)(b)1. and 2. are subject to preconstruction review through the filing of a Determination of Applicability to clarify jurisdiction or a Notice of Intent under the provisions of 310 CMR 10.05(4) and 10.53(1).

No work is proposed within the bordering vegetated wetland. The limit of work is 94 feet from the edge of wetlands. The only work proposed within the wetland buffer zone is the removal and reconstruction of the existing driveway and the installation of enhanced planting areas. There are no performance standards for activities in the wetland buffer zone. The erosion control measures, proposed stormwater infiltration and enhanced planting areas will avoid any potential impacts to the wetland buffer zone.

Conclusion:

Based on the analysis, the project as proposed will meet the performance standards outlined in section 10.58(4) and 10.58(5) of the Massachusetts Wetlands Protection Act and will not negatively impact the Wetland Buffer Zone. The project results in an increase of the impervious area in the Riverfront Area; which is mitigated through moving the proposed project further from the stream, stormwater infiltration improvements and enhanced plantings.

Thank you for your attention. Please call me at 508-429-1100 if you have any questions.

Sincerely,
GLM Engineering Consultants, Inc.


Joyce E. Hastings, P.L.S.
Wetland Consultant

cc. Jamie Ovadia
DEP NERO