

CONSERVATION COMMISSION MINUTES

Date: April 22, 2021

Time: 7:00pm – 9:52pm

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

<https://us02web.zoom.us/j/85769490136>

With a quorum present, the meeting opened at 7:00pm with Dan Green presiding as Chair.

Members Present: Susan Lunin, Leigh Gilligan, Jeff Zabel, Judy Hepburn, and joining late: Kathy Cade (7:13pm) and Ellen Katz (7:45pm).

Members Absent: none

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. 26 Alba Circle – RDA – addition to single-family home for lap pool, new stairs from existing deck

- **Owner/Applicant:** Amy and Scott Krentzman **Representative:** John Rockwood, EcoTec, Inc.
- **Request:** Issue a DOA.
- **Documents Presented:** Colored plans, site photos, draft DOA
- **Jurisdiction:** Buffer Zone
- **Project Summary**
 - Demolish existing sunroom and remove existing patio.
 - Construct a ~850 s.f. addition onto existing single-family home. ~165 s.f. of the proposed addition is within Buffer Zone.
 - Construct a new set of stairs from the existing deck.
 - Stabilize disturbed areas with seed for lawn.
- **Presentation (John Rockwood and Amy and Scott Krentzman) and Discussion:**
 - The applicant's representative provided context for the site and a summary of the proposed work. All construction access and stockpiling are proposed outside of the Buffer Zone.
 - The applicant's representative provided clarification that the tree that was recently removed from the adjacent property was removed by that property owner. The owner clarified that the tree was in poor health and had partially fallen during a recent storm.
 - The applicant's representative agreed that the trees on the adjacent property should be protected during construction with plywood over root areas.
 - Overall, the proposed project impact in buffer zone is negligible. ~100 s.f. of patio will be removed and restored to lawn to mitigate for the new construction (~165 s.f.).
 - Staff and the applicant's representative stated that increase in impervious area is very small and that the regulations do not require mitigation for the proposed work. The existing green space is limited and many of the opportunities for mitigation fall on the abutter property.
 - The Commissioners recommended that, if the abutter is interested in replanting where the tree was removed the abutters and the owners should reach out to Conservation staff for recommendations for native plantings.
- **Vote:** To issue a negative 3 and a negative 6 determination with the following conditions for work in buffer zone. [Motion: Jeff Zabel; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (abstain), Gilligan (aye); Vote 5:0:1]
 - Tree protection, in the form of plywood over the root areas, must be installed for the trees along the eastern property boundary.

2. 10 Cumberland Road – cont'd NOI – reconstruction of sunroom and garage with new deck on a single-family home – DEP File #239-884

- **Owner/Applicant:** David Chao **Representative:** Scott Goddard, Goddard Consulting, LLC
- **Request:** Continue the hearing



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
Susan Lunin
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- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, City Floodplain (~45' NAVD88 or 52' CNVD)
- Project Summary
 - Reconstruct existing detached garage on existing foundation with no expansion of footprint.
 - Reconstruct sunroom on existing piers with no expansion of footprint.
 - Construct new deck (~15' x 20') accessible from the first floor and connected to the rear yard by a set of stairs (~4' x 16'). Total new footprint is ~364 s.f. [Note: the new deck is closer than 50' from BVW and so is not exempt.]
 - Regrade the area below the proposed deck to create appropriate compensatory storage.
 - Install 7 shrubs and 3 perennials.
 - Total fill installed = .25 cubic yards; Total compensatory storage provided = 1.3 cubic yards. An excess of 1 cubic yard of compensatory storage is being provided.
- Discussion:
 - Applicant requested a continuation to the 5/13/21 meeting in order to revise the cut and fill calculations, as the owner asked for a change in the footings of the new deck.
- Vote: To continue the hearing to 5/13/21. [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye); Vote 6:0:0]

3. 288 Mill Street – NOI – 16' x 24' addition (plus second story additions) onto a single-family home – DEP File #239-888

- Owner: Catherine Wells Applicant/Representative: Wayne McManus, MMC Construction
- Request: Issue an OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - Construct 384 s.f. addition at walk-out basement level, partially over existing raised landscape area.
 - Construct new first floor deck.
 - Construct 4'x 10' second floor addition.
 - Install 470 s.f. of mitigation plantings.
- Presentation (Wayne McManus) and Discussion:
 - The applicant's representative provided a brief summary of the proposed work and clarified that all work is due to be done by hand, as heavy equipment cannot access the rear yard. Concrete will be pumped from the street and all concrete washout will be off-site.
 - The owner provided an explanation for the state of the site, clarifying that a previous interior project to renovate the basement into a 1-bedroom apartment required a significant amount of stone to be dug out of the basement area and it was left piled in the yard 2 years ago. The owner and her representative stated that they could use the stone to replace existing wood retaining walls on the landscape bed closest to the garage. Staff stated that this work would not require permitting, but should be included in the project description.
 - Staff stated that 2:1 mitigation (i.e., 768 s.f. of plantings) should be required and that the Commission should determine the exact square footage and a rough number of plantings they would like to see. The owner stated that she loves the area and is happy to do whatever landscaping is necessary to improve the site. The owner stated that she would like to restore the entire disturbed area in the rear yard, though it is larger than the required area. Staff and the Commissioners determined that 12 shrubs (blueberry or clethra) would be appropriate for the area along with some number of groundcover plants to re-naturalize the area. The owner agreed and will work with staff to determine specific numbers and species to be planted; once species are chosen a sketch plan will be provided.
 - Staff suggested two bounds, one near the side property boundary and then out in the yard marking the two "forward" corners. The Commission determined that 4 bounds marking all corners would be appropriate. The owner stated that this was acceptable.
- Vote: Vote to close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Leigh Gilligan; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (abstain); Vote 6:0:1]
 - A mitigation and/or restoration planting plan of ~ 770 s.f. in the area identified as "disturbed lawn" must be presented to the Conservation Commission for review and approval.

- The plan must be designed and maintained to replicate to the maximum extent practical a diverse ecological system, provide habitat for native species, and keep invasive species in check.
- The plan must include at least 12 native shrubs.
- The plan must include at least 25 native spreading herbaceous/groundcover plants.
- The plan must include 4 bounds (1" iron pipe or 4"x4"x36" stone or concrete post with at least 6" above grade) placed at the up-gradient boundary.
- The applicant must schedule and attend a pre-construction site visit with the applicant, construction supervisor and Conservation agent.
- Prohibitions include:
 - Construction, grading, landscape changes (other than the mitigation planting) outside the limit of work line shown on the approved plan.
 - Concrete washout may not occur within the 200-foot Riverfront Area (i.e., at the rear of the house).
 - Power vehicular access to the rear of the house. All work is to be done by hand.
- Landscape plantings within Commission jurisdiction must:
 - Stabilize all exposed areas.
 - Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance).
 - Be appropriately bounded as shown on the approved plans.
 - Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons).
 - Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons).
- The required bounded Riverfront mitigation areas shall be maintained in perpetuity in its predominantly natural condition.

4. 25 Moorfield Road – informal discussion – potential hardscape expansion

- Owner/Applicant: David and Donna Frieze Representative: Ted Smiley, Gregory Lombardi Design, Inc.
- Request: Initial feedback from the Commission about proposed hardscape expansion.
- Documents Presented: Preliminary plans
- Jurisdiction: Buffer Zone, City Floodplain (all work is above the flood elevation), Conservation Restriction
- Project Summary:
 - The applicant is exploring an expansion of hardscaping in the rear yard, including a pool, additional patio space, deck space, and retaining walls.
 - The proposal indicates new hardscape, new lawn, and new walled planting beds.
 - The work proposed is just outside the 25' Naturally Vegetated Buffer Zone (NVBZ) and Conservation Restriction boundary.
- Presentation (Ted Smiley) and Discussion:
 - The applicant's representative provided a summary of the work in front of the Commission for informal review.
 - This site is encumbered by a 20' Conservation Restriction and buffer zone to the bank of Hammond Pond. The applicant's representative clarified that they are trying stay out of the 25' NVBZ, while providing hardscape improvements in the outer 75' of buffer zone.
 - All access and stockpiling would be from and in front of the house, as there is no good access to the back. A crane would have to be used to maneuver materials to and from the rear yard.
 - The applicant team has been working with a number of City departments, including historic, to ensure that the work is done to their requirements and are now coming to the Commission for this informal review to determine what the Commission would be looking for in an NOI application.
 - The Commission asked about the few areas where work breaches the 25' NVBZ and clarified that it is the Commission's interest that all of the area within the 25' NVB be re-naturalized. The applicant's representative stated that they could incorporate those interests into the design.
 - Staff asked if any blasting is going to be anticipated due to the presence of ledge. The applicant's representative stated that it is their goal to do all work by hand and avoid blasting. Commissioner's agreed that the project would take an extremely long time to do all of the work by hand.
 - Commissioners asked for some history on the Conservation Restriction, which was put on the lot when the house was constructed. The current owner was not the original owner, so does not have much additional information.

Staff stated that the CR was intended to help protect the functions and values of Hammond Pond and ensure a buffer zone is continued to be provided for the pond.

- Commissioners stated that there should be a focus on shielding light and noise from the wetland resource area and ensuring there are sufficient native plantings to promote wildlife habitat.
- Commissioners asked about whether there would be a fence around the pool structure, but the applicant's representative stated that their goal is to have an automatic, locking pool cover to protect the pool, and so the hope to avoid a fence in conservation jurisdiction. Staff pointed out that there are some high retaining walls proposed, so wildlife would be barred,
- Commissioners asked about how the applicant would ensure that no material is just dumped over the ESC and into the 25' NVBZ at the pinch points on the property. Staff stated that such a requirement should be included in construction notes/site control notes and will need to be monitored closely to ensure no violations.
- A Commissioner asked if there was any information about the existing wildlife and wildlife habitat in the area. Other Commissioners noted the adjacent parking lot for Star Market which generates a lot of noise and light in the area. Staff stated that it is still natural shoreline and so wildlife movement is important and should be protected.
- The proposed retaining walls presents significant new barriers to wildlife.
- The Commission stated that lighting needs to be carefully designed to ensure there is no impact on wildlife, particularly during sensitive seasons. Conditions on lighting should be detailed and strict.
- Commissioners agreed that the proposed project could be approvable, as the footprint expansion is not large.
- Consensus: The Commission agreed that a Notice of Intent would be necessary for the work and should address:
 - Re-naturalization of areas down slope of retaining walls and areas devoid of vegetation within the 25' NVB.
 - Construction site management and site controls should be very detailed to ensure no breaches of the limit of work.
 - Lighting should be appropriately designed to ensure no impact on the resource area or the wildlife using the resource area.
 - Blasting should be avoided.
 - Suitable mitigation plantings should be provided for the expansion in hardscape and to augment the buffer zone/Conservation Restriction area.

5. 10 Gambier Rd – minor plan change request – shed location – DEP File #239-608

- Owner/Applicant: Owen Hughes Representative: self
- Request: Determine if minor plan change request is approvable.
- Documents Presented: As-built plan
- Jurisdiction: Buffer Zone
- Presentation (Owen Hughes) and Discussion:
 - Staff clarified that there had been request for a COC but when a site visit was made by staff, several issues were noted, including an unpermitted shed within the 50-foot buffer. The new owner (Owen Hughes) is now asking if the shed can remain in its current location, which if approved, would allow for the OOC to be closed out.
 - The applicant noted that there are currently interior renovations occurring (that were administratively approved), but that the discussion this evening addresses a project that was permitted long prior to his recent purchase of the property and the unpermitted shed within the 50-foot buffer zone. The prior owner was going to have moved the shed outside of the 50-foot buffer, but Owen would like to leave it where it is. He stated that the proposed location for the shed is on a slope and would require substantial site preparation and that the proposed location would take up the most desirable lawn space, away from the wetland.
 - Commissioners stated that they feel that additional mitigation should be propose by the owner in exchange for allowing the shed to remain.
 - Staff clarified that the area behind the bounds is to be permanently protected and allowed to re-naturalize. The wetland area is not in the best of health and is heavily populated by Japanese knotweed.
 - Commissioners questioned if removal of the invasives could serve as additional mitigation for the shed remaining. The owner said he would love to get rid of the Japanese knotweed but is unsure of the best method. Staff recommended repeated mowing over the years.
 - Commissioners stated that they are comfortable with staff meeting on site with the owner to determine the specific areas of removal but are concerned about enforcement of the mitigation. Commissioners asked how to ensure that a repeated mowing effort could be ensured. Staff stated that if a years-long effort is required, it cannot

be ensured through a minor plan change. A cut and inject, one-time process could be required as mitigation for the shed and could be completed prior to the issuance of a Certificate of Compliance. An MOU could be drafted for a longer invasive control process.

- Because the Commission was unable to determine an appropriate mitigation plan, they will look to the owner to get an estimate of the cost for treating the knotweed to determine what appropriate mitigation would be.
- Consensus: The discussion will continue at the next hearing to determine the most appropriate treatment of the knotweed as mitigation for allowing the shed to remain.

6. 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427

- Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
- Request: Determine if deadline is needed for restoration plan submission.
- Documents Presented: none
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Issue Summary:
 - The applicant had submitted a restoration planting plan for the lot, which included the action listed below, which was determined by the Commission to be insufficient mitigation.
 - Removal of the patio and fence.
 - 8 saplings: 5 *Thuja plicata* (Green Giant Arborvitae), 2 *Cornus alternifolia* (Pagoda Dogwood), 1 *Cornus Racemosa* (Gray Dogwood). The applicant notes that they are proposing the arborvitae, despite Commissioner comments at the last meeting, as these shrubs provide screening and a visual barrier akin to a fence. They are willing to consider *Thuja occidentalis “Nigra”* (Dark American Arborvitae) instead of Green Giant.
 - 21 shrubs (5 gal): 5 American Cranberry, 6 *Cornus alba* Ivory (red-twig), 7 Inkberry, 3 Snow Queen Hydrangeas.
 - Lawn area to allow space for the tenant’s children to play.
- Discussion:
 - The Commissioners feel that it is appropriate to put a deadline for receipt of a mitigation plan. As the material deadline for the 5/13/21 is 4/29/21, it may be a tight timeline. There should be a request for materials for the 5/13/21 meeting but a requirement for materials for 6/3/21.
- Consensus: Request materials be submitted for the 5/13/21 meeting, and require materials be submitted for the 6/3/21 meeting if nothing is provided for 5/13/21.

II. CONSERVATION AREA DECISIONS

7. Beekeeping on Conservation Land – Discussion with Current Norumbega Beekeepers

- Landowner: Conservation Commission
- Documents Presented: Photos, draft licenses, list of plants for pollinators
- Staff Notes:
 - The Chair opened the discussion by stating that there is quite a bit of new information emerging regarding native bees vs. honeybees, and that staff and the Commission will continue to educate themselves about the environmental impact of honeybees and see if there are research opportunities within Newton. Tonight’s discussion is not about the Commission’s policy, but is focused on the license language for the current beekeepers.
 - Staff provided a brief summary of the beekeeping area in Norumbega. Alla and Vasyl Ohorilko stated that they did not have much time last year to develop a good plan before winter started but have been continuing to learn about effective beekeeping and are interested in planting more wildflowers to support pollinator populations.
 - Commissioners asked for further information from the Ohorilkos:
 - Previous experience with beekeeping -- this is their 4th year.
 - Did they took over the hives from David Rielly at Nahanton Park – yes, they are getting those licensed. Judy Dore had been in charge of the process but retired so there have been some delays.
 - How many hives are active at Norumbega -- only 4 have survived, and 1 of those may be in danger.
 - Memberships -- They are members of the Norfolk County Beekeeping Club and mentored under David Reilly for a time prior to his retirement.
 - Plans for this year at Norumbega -- They are hoping to maintain 4 hives at Norumbega in the coming year.

- Plans for the future -- They are very interested in starting an educational partnership with local elementary schools to teach more about pollination and bees.
- The issue of the ConCom's policy of only maintaining one "outyard" in Newton (i.e., just Norumbega or Nahanton, not both) -- They are hoping to learn more about where the bees will best survive. Staff felt that the brand new policy should not be enforced this year, as we are already in the season, but that it should be addressed prior to license renewal.
- Staff walked Commissioners through the original Norumbega license language (for David Reilly) and the proposed license language for Norumbega (for the Ohorilkos).
 - Licenses would now be issued for only 1 year with no automatic renewals, to ensure that any policy changes are appropriately incorporated into the beekeeping practices – the Ohorilkos have no issue with a 1-year permit.
 - Staff confirmed that native plantings and educational programming could be discussed over the course of this year.
 - If educational programming demands more than 2 hives next year, the Ohorilkos can bring a proposal to the Commission, but if there is no educational need, hives for the next year would be limited to 2.
- Commissioners asked if there was any coordination with PRC regarding this issue. Staff stated that there has been no formal coordination, but Commissioners stated that PRC staff member Luis Perez Demorizi is a member of the local pollinator group.
- Staff walked the Commission through the license language for the Old Deer Park (Mark Lewis). Commissioners asked for clarification about the reduction to 2 hives, and staff confirmed that if there is no educational demand, that the hives in the Old Deer Park must be reduced to 2 next year.
- Public Comment:
 - Jay Werb (31 Williams Street) – suggested that perhaps the Ohorilkos and Mark Lewis could provide pollen samples to further the information available on what honeybees are focusing on.
 - Mark Lewis (Old Deer Park Beekeeper) and the Ohorilkos stated that they would be willing to explore setting up pollen traps. There was a discussion of long-term coordination between Newton beekeepers and local scientists interested in data collection to learn more about floral resources used by honeybees.
- Vote:
 - To approve license language, as discussed during the meeting, for Alla and Vasyl Ohorilko at Norumbega Conservation Area. [Motion: Susan Lunin; Second: Ellen Katz; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]
 - To approve license language, as discussed during the meeting, for Mark Lewis at Old Deer Park. [Motion: Susan Lunin; Second: Judy Hepburn; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

8. Kennard Conservation Area – Weir Structure

- Landowner: Conservation Commission
- Documents Presented: email from abutter, photos
- Discussion:
 - Staff stated that we received 2 resident reports of unusually high standing water within the wetland area of Kennard Conservation Area. Photos were submitting showing the height of the water. The resident's concern was mosquito breeding.
 - Staff are unsure what caused the high water, potentially a small ice dam or debris clog, but when staff made a site visit, the water had receded significantly.
 - One of the reporting residents made a request that the Commission consider removal of the dam from this location to prevent future high-water situations.
 - Removal of the dam would cause potentially significant modification to the now well-established wetland area. Commissioners also raised concern about the administrative and permitting issues that would be raised with dam removal.
- Consensus: Commissioners agreed that maintaining the existing marsh and wooded wetland is appropriate for now, and due to the many other issues on the Commission's agenda, that this issue should be tabled for now.

III. ADMINISTRATIVE DECISIONS

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9. Minutes of 4/1/21 to be approved

- Documents Presented: Draft 4/1/21 minutes
- Vote: To accept the 4/1/21 minutes as edited. [Motion: Dan Green; Second: Jeff Zabel; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]

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

UPDATES

V. WETLANDS UPDATES

- Risk Tree Assessment Protocol: Staff will develop a field notes sheet to make consistent our evaluation of “risk trees.”
- Saco Street Condos: One tree that was considered a threat may have been cut without a permit. Jennifer will make a second site visit soon.
- 630 Walnut Street: Builder apparently cut trees on PRC land near Bullough’s Pond.

VI. CONSERVATION AREA UPDATES

- Houghton tree cutting: Tree Tech will conduct the work at the end of April, weather allowing.
- Orienteering on Conservation land: The Flowed Meadow/Auburndale event was a great success drawing in 31 groups representing 93 individuals! The Eagle Scout is due to install the Kennard course April 24th, weather permitting.
- Steps at Norumbega: The Eagle Scout is due to install steps from the river up to the new trail shortly.
- Martin trail and poetry path: Steward Julie Leavitt is due to do a trail sprucing up in advance of posting poems shortly.
- Stairs from the Greenway to the Riverwalk: New contractors are being explored for a summer installation.

VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: The introductory video and survey have garnered lots of responses (over 200!).
- ACROSS trails ground-truthing effort update.
- Climate Action Plan implementation continues.

VIII. ADMINISTRATIVE UPDATES

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

ADJOURN at 9:52pm [Motion: Susan Lunin; Second: Susan Lunin; Roll-call vote: Green (aye), Lunin (aye), Hepburn (aye), Zabel (aye), Cade (aye), Gilligan (aye), Katz (aye); Vote 7:0:0]