

DETAILED CONSERVATION COMMISSION AGENDA

Date: Thursday, December 9, 2021

Time: 7:00pm

Place: This meeting will be held as a virtual meeting via Zoom.



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Chief
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
TBD

**Conservation
Commission
Members**
Kathy Cade
Dan Green
Judy Hepburn
Ellen Katz
Susan Lunin
Jeff Zabel
Leigh Gilligan

**Associate
Member**
Sonya McKnight

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The Conservation Commission will hold this meeting as a virtual meeting (with closed captions); no in-person meeting will take place at City Hall.

Zoom access information for the meeting will be posted 48 hours in advance of the meeting at: <https://www.newtonma.gov/government/planning/boards-commissions/conservation-commission>

Please contact jsteel@newtonma.gov or 617-796-1134 with any questions.

NOTE: In addition to the documents presented in the Commission's packet (available on the Commission's website), full application plans and narratives are available on [the Commission's website](#).

NOTE: Times listed are estimates. Items may be taken out of order at the Chair's discretion. Discussion may be limited by the Chair.

DECISIONS

I. WETLANDS DECISIONS

1. (7:00) 100 Boulder Road – NOI (cont'd) – addition, deck, patio to a single-family home – DEP file #239-908

- Owner/Applicant: Amir Nashat
- Representative: Rich Kirby, LEC, Inc.
- Request: Continue to January 6, 2022
- Documents Presented: none
- Jurisdiction: Flood Zone (114' NAVD88), Riverfront Area, Buffer Zone to Bank
- Staff Recommendations: Vote to accept request to continue to January 6, 2022.

2. (7:05) 44 Brandeis Road – NOI – addition to a single-family home – DEP file #239-???

- Owner: Michael Landzberg
- Representative: Tim McGuire, Goddard Consulting, Inc.
- Request: Issue OOC for proposed addition.
- Documents Presented: Colored plans, site photos
- Jurisdiction: BLSF (10.57)
- Performance Standards:
 1. Compensatory storage shall be provided for all flood storage volume that will be lost ...
 2. Work shall not restrict flows so as to cause an increase in flood stage or velocity.
 3. Work in those portions of bordering land subject to flooding found to be significant to the protection of wildlife habitat shall not impair its capacity to provide important wildlife habitat functions.
- (c) ... no project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare
- Project Summary:
 - Construct a single-story addition and driveway extension on the southwest side of the existing house.
 - The addition will result in 282 cubic feet of fill. The applicant will grade the site to provide 798 cubic feet of compensatory storage on-site, a surplus of 516 cubic feet storage on-site.
- Staff Notes:
 - This appears to be a very simple project.
 - Staff's only concerns are that:
 - No erosion control or limit of work line or erosion control detail are shown.

- The proposed grading in the front yard will disturb an existing mature shrub and the roots of a mid-sized tree.
- The cut and fill table shows a cut from 121-122', but there is not a corresponding grade change line on the plan. Cut and fill calcs and or site grading should be revised to ensure accuracy.
- Staff Recommendations: Once above issues are addressed and revised plans have been submitted as appropriate, vote to close the hearing and issue an Order of Conditions with the following special conditions.
 - The addition shall be slab-on-grade construction; there will not be a basement below the addition.
 - Compensatory flood storage must be provided in its entirety as per the grading shown on the approved plans.

3. (7:25) 45 Buswell Park – NOI – patio expansion and rain garden – DEP file #239-909

- Owner: Brittany and Dustin Bennett
- Representative: Rob Gemma, MetroWest Engineering, Inc.
- Request: Issue OOC for the proposed hardscape expansion and rain garden installation.
- Documents Presented: Colored plans, site photos
- Jurisdiction: Land Under Water (not to be touched); City Flood Zone; Buffer Zone to Bank of an Intermittent Stream
- Performance Standards:
 - 10.53(1). "For work in the Buffer Zone subject to review under 310 CMR 10.02(2)(b)3., the Issuing Authority shall impose conditions to protect the interests of the Act identified for the adjacent Resource Area. ... where prior development is extensive, may consider measures such as the restoration of natural vegetation adjacent to a Resource Area to protect the interest of [the Act]. ... The purpose of preconstruction review of work in the Buffer Zone is to ensure that adjacent Resource Areas are not adversely affected during or after completion of the work." enhancing to the maximum extent practicable a 100-foot naturally vegetated buffer
- Project Summary: The owner would like to: (1) expand an existing patio -- adding 578 sf of impervious area to the Buffer Zone, (2) install a 553 sf (18 cy) rain garden to handle runoff from the rear roof, new synthetic turf, and patio, and (3) install a stone bridge over the stream channel, (4) install native plants along the property line and new hardscape, and (5) remove invasives on the far side of the stream.
- Staff Notes:
 - Engineering has approved the proposed stormwater management system sizing.
 - The Operations and Maintenance Plan submitted indicates that all maintenance reports should be submitted annually to the Engineering Division of the Weston Department of Public Works. This must be corrected.
 - There is no laydown or stockpiling area identified on the plan. This should be addressed.
 - Some fill associated with the grading for the patio is within the City Flood Plain and appears to be at elevation 89-90'. The cuts associated with the rain garden appear to be at 87-88' and 88-89'. The City Flood Plain Ordinance requires foot-for-foot compensation of fill in the City Flood Plain ("Compensatory storage shall mean a volume not previously used for flood storage, and shall be incrementally equal to the theoretical volume of flood water at each elevation which would be displaced by the proposed project."). The discrepancy should be rectified.
 - The applicant should submit the written approval from Newton DPW for the proposed coring into the wall of Hyde Brook for the overflow drain pipe.
 - The number of plants shown on the plan within the Buffer Zone do not appear to comport with the numbers shown in the planting schedule. The plans should be vetted and any discrepancy rectified.
 - There are 44 shrubs proposed in the Buffer Zone, but no shrubs proposed along the stream. All the shrub plantings appear to be for screening, not ecosystem enhancement. The planting plan should likely be revised.
 - The stream edge was due to have been planted under previous OOCs and should be planted under this filing.
 - Invasives removal is indicated on the plan, but there is no mention of it in the narrative and no details on the plan. Removal targets and strategies must be clarified (is the intention to remove all the Norway maple trees, or just a shrub or two?). To accompany invasive removal, there should likely be some replacement plantings of native species to enhance the area and jumpstart restoration.
 - There is a small tree that will be removed for the installation of the patio. This should be noted on the plan and potentially accounted for/reflected in the mitigation planting plan.
 - The roots of one large tree just off the property may be adversely affected by the grading/excavation for the proposed rain garden. This should be addressed.
- Staff Recommendations: Once above issues are addressed, and revised plans have been submitted as appropriate, vote to close the hearing and issue an Order of Conditions with the following special conditions.
 - The stormwater management system must be installed as per the approved plans.
 - Landscape plantings within Commission jurisdiction must:

- Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
- Stabilize all exposed areas
- Be installed on or before _____
- Have a survival rate of _____ % of total number of trees (after 2 growing seasons)
- Have a survival rate of _____ % of total number of shrubs (after 2 growing seasons)
- Have a survival rate of _____ % aerial coverage of all other plants (after 2 growing seasons)
- Mulch applications shall diminish over time and eventually cease as ground cover species and shrubs spread.
- Be bounded.
 - Bounds shall be iron pipe or 4"x4"x36" stone or concrete post with at least 6" above grade.
 - Bounds shall be placed at every boundary corner and be no more than _____ feet (20?) apart.
- To protect the full suite of benefits of area wetlands, wildlife, and native insects and pollinators, no herbicides and pesticides shall be used.
- To protect wetland wildlife, exterior lighting shall:
 - be "dark sky" compliant -- i.e., shielded to prevent any "up lighting" and "backlighting", focused, and directed so as to not illuminate any part of the wetland.
 - have limited blue content to decrease skyglow and disruption of diurnal animals
 - have no spotlights or floodlights shall be directed at Hyde Brook.
 - be switched off when not in active use

4. (7:50) 40 Albemarle Road – OOC minor plan change request – modify mitigation planting area – DEP #239-880

- Owner: Jeremy Osinski
- Representative: Jeremy Osinski
- Request: Accept proposed changes to the mitigation planting area and landscaping as a minor plan change.
- Documents Presented: Colored plans
- Jurisdiction: Riverfront Area, 100-Foot Buffer Zone to Bank
- Performance Standards:
 - 10.58(4) enhancing to the maximum extent practicable a 100-foot naturally vegetated buffer
 - 10.58(5) establishment of permanent mitigation (1:1) and restoration (2:1) planting areas.
- Project Summary: The owner would like to: (1) move the shed, (2) install a retaining wall, (3) reconfigure the hardscape (patio and walkway), and (4) reconfigure the mitigation/restoration planting area.
- Staff Notes:
 - Staff sent initial comments to the owner noting
 - Concerns about breaking up the restoration area
 - Concerns about installing a retaining wall and a shed in what was to have been the restoration area
 - Interest in maximizing the restoration area along the street frontage
 - Interest in providing utilitarian boundaries and pathways
 - Staff reminded the owner about prior obligations of:
 - The patio being "on a fully pervious bed of pea stone with similar (1-2") spacing between the stones to maximize infiltration."
 - "A swale of at least 6 inches in depth and 1-2' in width must be installed all along the northern property boundary"
 - "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"
 - The owner responded with revised plans reflecting:
 - Some reshaping of the restoration/mitigation planting areas
 - Reversing the swing of the proposed gates to limit impact on plantings
 - Reducing the angle on the retaining wall
 - Staff is not comfortable with the restoration area being diminished and divided to accommodate expanded/altered site development and the precedent such change would set.
- Staff Recommendations: Discuss the proposed changes and determine what if any changes are appropriate and whether they should be approved as minor plan changes or whether an amended OOC would be required.

5. (8:10) 22 Hollywood Drive – Request to Close Enforcement Orders – planting plan, bounding – DEP #239-271 & 239-368

- Owner: Jamie Mackay

- Representative: John Rockwood
- Request: Close 3 outstanding Enforcement Orders
- Documents Presented: Colored plans, site photos
- Jurisdiction: BVW and 100-Foot Buffer Zone to BVW
- Site History:
 - 1993 RDA → positive DOA → OOC 239-271 SFH → 1994 COC
 - 1995 EO #1 (issued to Stumpo and Boston Edison for extra decks, drainpipes, fill in BVW, natural area alteration, etc.
 - 1999 OOC 239-368 pool with fenced natural area to be maintained in perpetuity
 - 1999 EO #2 (issued to Avi Fogel) for natural area alteration, etc.
 - 2002 remedial planting plan approved
 - 2003 EO #3 (issued to Bob Carp) fill, planting, fencing, land agreement with Cornerstone
 - Law Department involvement
 - 2018 owner Bob Carp sought “expedited” closure of Enforcement Orders and open Orders of Condition
 - 2018 owner Amy Carp conducted a file review and was asked to develop an “application” package documenting site compliance and seeking closure of EOs and OOCs.
 - 2019 a 'friendly' EO #4 as the mechanism to allow for the conduct of the approved Restoration Plan ("Response to Outstanding Enforcement Orders, 22 Hollywood Drive, Newton, Massachusetts," prepared by EcoTec, Inc., dated June 17, 2019). The plan called for:
 - Relocation of the chain-link fence;
 - Removal of hazard trees;
 - Placement of logs in the area as habitat;
 - Pruning of maple trees to promote light penetration into the area;
 - Removal and treatment of invasive vines and shrubs; and
 - Planting of 160 understory trees and shrubs within ten habitat areas within the subject area.
 - Fall of 2019 and fall of 2020 works was done according to the approved plan.
 - 2021 owner Jamie Mackay seeks closure of E.O.s.
- Staff Notes:
 - Staff do not feel that a deed restriction (cited in older EOs) is necessary.
 - Invasive species in the subject area have been dramatically reduced compared to adjacent untreated areas. This has allowed native volunteer species an opportunity to try to become established in the area.
 - Staff applaud the efforts of the owners to remove invasives and install natives.
 - 96 shrubs (60%) were observed to be alive in Nov. 2021. Staff believe that a few more shrubs should be installed along the lawn-restoration area line, with photographic proof of proper installation, but with no long-term survival requirements.
 - Staff noted a tree stump but have no record of a permit for the removal of that tree. Commissioners should discuss whether a replacement sapling would be appropriate.
 - To facilitate tree removal and pruning, the chain-link fence was entirely removed from the site, however staff feel that given the openness of the site, a fence (e.g., split rail) is necessary to define the extent of “lawn” and the edge of the restoration area should still be required.
 - Once EOs are closed, old OOCs must be closed with requests for COCs.
- Staff Recommendations: Discuss and determine whether memo(s) of clarification or closure should be granted.

6. (8:35) 36 Parsons Street – COC Request – SFH teardown/construct duplex – DEP #239-854

- Owner: Arto Dermovsesian Applicant: John Rockwood, EcoTec, Inc. Representative: John Rockwood
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: RFA and Flood Zone
- Staff Notes:
 - The work under 239-854 was permitted to remove unauthorized fill from the 100-year floodplain that occurred during work under 239-728.
 - The plant materials within the enhancement area were removed, the area was re-graded, and the plant materials were replanted or replaced. VTP Associates, Inc. surveyed the area:
 - 41.64 cubic feet (1.54 cy) of excess flood storage at the lower increment 41-42’

- 20.48 cubic feet (0.76 cy) of shortfall at the higher increment 42-42.5. Staff feel this is close enough.
- All required COC materials have been received. A staff site visit on 11/24/21 found compliance with the OOC but for some use of the spaces between the plants for play or storage.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance with a cover letter explaining how the restoration area must be maintained.

7. (8:40) 36 Parsons Street – COC Request – excess fill removed – DEP #239-728

- Owner: Arto Dermovsesian Applicant: John Rockwood, EcoTec, Inc. Representative: John Rockwood
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: RFA and Flood Zone
- Staff Notes: All required COC materials have been received. A staff site visit on 11/24/21 found general compliance with the OOC.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance.

8. (8:45) 10 Gambier Street – COC Request – disconnect cesspool, connect to sewer – DEP #239-608

- Owner: Owen Hughes Applicant: Owen Hughes Representative: Verne Porter
- Request: Issue a complete COC.
- Documents Presented: site photos
- Jurisdiction: Buffer Zone
- Staff Notes: All required COC materials have been received. A staff site visit on 8/4/21 found general compliance with the OOC and memorandum regarding cutting back Japanese knotweed.
- Staff Recommendations: Vote to issue a complete Certificate of Compliance.

II. CONSERVATION AREA DECISIONS

9. (8:50) Honeybee data collection.

- Should we ask Mark to purchase a DNA testing kit for his Old Deer Park honey to identify pollen used by his honeybees.

III. ADMINISTRATIVE DECISIONS

10. (9:05) Minutes of 11/18/21 to be approved

- Documents Presented: Draft 11/18/21 minutes as edited by Ellen Katz
- Staff Recommendation: Vote to approve the 11/18/21 minutes.

IV. ISSUES AROUND TOWN DECISIONS

11. (9:10) Discussion of installing signs along South Meadow Brook

- Request: Consider installing identification signage along South Meadow Brook to promote understanding & protection.
- Staff Notes:
 - The Commission should consider this opportunity in the context of other initiatives, e.g., mapping buried streams, ACROSS trails (ground-truthing?), and other possible educational priorities (tree planting, etc.)
 - The Commission should consider this opportunity in the larger context of all major watersheds in the City for a concerted educational effort and roll-out.
 - Perhaps a summer intern could research strategic locations where signs might be installed, and signage used by other communities, such as Concord.

UPDATES

V. WETLANDS UPDATES

- Parks and Rec’s upcoming projects: Gath Pool, Crystal Lake accessibility and Left Beach improvements, Warren House fields, and NSHS/Brown/Oak Hill fields.

VI. CONSERVATION AREA UPDATES

VII. ISSUES AROUND TOWN UPDATES

VIII. ADMINISTRATIVE UPDATES

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

ADJOURN