

DETAILED CONSERVATION COMMISSION AGENDA

Date: Thursday, January 6, 2022

Time: 7:00pm

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

The Conservation Commission will hold this meeting as a virtual meeting; 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 (continued) – addition to a single-family home – DEP file #239-908

- Owner/Applicant: Amir Nashat
- Representative: Rich Kirby, LEC, Inc.
- Request: Issue an OOC approving the proposed work
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Flood Zone (114' NAVD88), Riverfront Area, Buffer Zone to Bank
- Performance Standards
 - Riverfront Area: 10.58(4)
 - (c) Practicable and Substantially Equivalent Economic Alternatives.
 - (d) No Significant Adverse Impact.
 - 1. Within 200-foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
 - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible....
 - b. Stormwater is managed ...
 - c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
 - d. ... incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.
 - RFA: Redevelopment within Previously Developed Riverfront Areas 10.58(5)
 - ... work improves existing conditions.
 - Redevelopment means ... reuse of degraded or previously developed areas.
 - A previously developed riverfront area contains areas degraded....
 - Work to redevelop previously developed riverfront areas shall ...:
 - (a) At a minimum, work shall result in an improvement over existing ...
 - (b) Stormwater management is provided according to standards
 - (c) Proposed work shall not be closer to the river than existing conditions ...
 - (d) Proposed work...shall be located... away from the river, ...
 - (e) ... proposed work shall not exceed the ... degraded area ...
 - (f) ... if an applicant proposes restoration ... of at least 1:1 ...
 - Bordering Land Subject to Flooding: 10.57
 - 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.



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Chief
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Ellen Menounos

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

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- 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) Notwithstanding the provisions of 310 CMR 10.57(4)(a) or (b), no project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.59.
- Newton Conservation Commission’s 25-Foot Naturally Vegetated Buffer (NVB) Policy. “GOAL of this POLICY: To fully protect the vital functions and values of Newton’s wetland resource areas by protecting and/or re-establishing a naturally vegetated buffer around all wetlands, waterbodies, and waterways...”
- Proposed Project Summary:
 - Construct addition to single-family dwelling on sono-tubes over existing deck and lawn.
 - Construct a covered deck, an uncovered deck and a patio over existing lawn.
 - Replace the existing paved driveway pervious paver driveway with infiltration piping beneath.
 - Plant 60 native shrubs along the edge of the stream bank and rear of the property.
- Staff Notes
 - A prior OOC (239-600) has not been closed out with a COC and should be prior to or concurrent with the issuance of a new OOC for the currently proposed addition.
 - Revised materials reflect a modified addition, changed BVW wetland line, modified planting plan, added infiltration,
 - Details of the size/area of the proposed new footprint should be provided.
 - The planting area nearest the house has been reshaped to be less linear.
 - Staff would like further clarification about and possible modifications to the proposed plantings.
 - The existing mature shrubs in the back yard are not shown the planting plans. Their fate should be clarified.
 - The proposed plantings nearest the house are identified as “restoration, but do not qualify as “restoration” per the 310 CMR 10.58 regulations – square footage will need to comply with regulatory requirements.
 - The revised “enhancement” planting plan near the BVW still does not clarify what native trees and shrubs are currently in place and intended to be preserved.
 - The proposed planting schedule still does not include any canopy trees or evergreen species, but staff feel that the site could accommodate 2 or more.
 - Staff feel that permanent bounds should be included in the plan.
- Staff Recommendation: Address the issues of above prior to closing the hearing.

2. (7:25) 45 Buswell Park – NOI (continued) – 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, draft OOC
- Jurisdiction: Land Under Water (not to be touched); City Flood Zone; Buffer Zone to Bank of an Intermittent Stream
- Proposed Project Summary: (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 bridge over the stream channel, (4) install native plants, and (5) remove invasive plants on the far side of the stream.
- Staff Notes
 - In the revised materials, the applicant has:
 - Added granite bounds along the 25-foot NVBZ line.
 - Proposed a wooden arch bridge spanning the stream.
 - Converted the stone lined detention basin into a vegetated rain garden -- but the proposed vegetation is exclusively groundcover and perennials.
 - Added some native shrubs along the house side of the stream -- but only 6.
 - Added native plantings to the “rear” parcel across the stream.
 - Invasive control techniques on the plan notes seem appropriate except for:
 - The notes about Japanese knotweed removal. Digging will not be successful. A combination of appropriately timed cutting and injection of herbicide should be used.
 - Pulling saplings and large shrubs near the stone walls of the stream should be avoided to avoid destabilizing the walls.
 - Proposed solid panel privacy fence. Where the fence intrudes into the City Flood Zone, the fence should be elevated 6” from the ground and possibly 50% open in the lower 1-2 feet to allow flood waters to flow

freely. (The City Floodplain Ordinance does not define a flood elevation for this stretch of Hyde Brook, it only defines a 30-foot swath on either side of the stream.)

- Outdoor lighting has been proposed and should be discussed and conditioned.
- Staff Recommendations:
 - Require a planting plan that includes more native woody shrubs in the rain garden and along the stream side.
 - Require the use of herbicides to ensure control of the Japanese knotweed.
 - Near the stream, require all Norway maple saplings be cut (not pulled) and all buckthorn be cut and painted (not pulled) to avoid destabilizing the walls of the stream channel.
 - Condition outdoor lighting to protect the stream corridor.
 - Once all concerns have been addressed, consider closing the hearing and issuing an OOC with special conditions.
 - Granite bounds must be at least 3' long and buried with a reveal of at least 6"
 - Final grading (after all loam and/or sod has been installed) must comply with the approved plans to provide all flood storage capacity illustrated.

3. (7:50) 135 Selwyn Rd – NOI – single story addition and two decks -- DEP #239-???

- Owner/Applicant: Barbara Chandra
- Representative: Tim Schutz, Goddard Consulting
- Request: Issue OOC for proposed work.
- Documents Presented: mitigation planting plan, civil plan, site photos, draft OOC
- Jurisdiction: Riverfront area, BLSF (120.2 CNVD or 113.8 NAVD88), City Floodplain
- Performance Standards
 - Riverfront Area: 10.58(4)
 - (c) Practicable and Substantially Equivalent Economic Alternatives.
 - (d) No Significant Adverse Impact.
 1. Within 200 foot riverfront areas, the issuing authority may allow the alteration of up to 5000 square feet or 10% of the riverfront area within the lot, whichever is greater ..., provided that:
 - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible....
 - b. Stormwater is managed ...
 - c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
 - d. ... incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.
 - RFA: Redevelopment within Previously Developed Riverfront Areas 10.58(5)
 - ... work improves existing conditions.
 - Redevelopment means ... reuse of degraded or previously developed areas.
 - A previously developed riverfront area contains areas degraded....
 - Work to redevelop previously developed riverfront areas shall ...:
 - (a) At a minimum, work shall result in an improvement over existing ...
 - (b) Stormwater management is provided according to standards
 - (c) Proposed work shall not be closer to the river than existing conditions ...
 - (d) Proposed work...shall be located... away from the river, ...
 - (e) ... proposed work shall not exceed the ... degraded area
 - (f) ... if an applicant proposes restoration ... of at least 1:1 ...
 - Bordering Land Subject to Flooding: 10.57
 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) Notwithstanding the provisions of 310 CMR 10.57(4)(a) or (b), no project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.59.
 - Newton Conservation Commission's 25-Foot Naturally Vegetated Buffer (NVB) Policy. "GOAL of this POLICY: To fully protect the vital functions and values of Newton's wetland resource areas by protecting and/or re-establishing a naturally vegetated buffer around all wetlands, waterbodies, and waterways..."
- Proposed Project Summary:

- Construct a single-story addition in place of an existing deck, with an associated landing and deck – adding 360 sf of impervious area.
- Remove and replace a solid stone exterior stair with an open wood stair.
- Fill 5 cubic feet of flood storage and provide 41 cubic feet of compensatory storage.
- Install 750 sf “Riverfront Restoration” along the southern property boundary / stream side.
- Staff Notes
 - Staff feel that the addition is small, appropriately located as far from the stream as possible, and appropriately constructed on pilings to minimize fill in Flood Zone.
 - The planting plan:
 - Is a long linear area, but robust with a mixture of trees and shrubs.
 - Is a nice mix of canopy trees and shrubs. Staff have some concern that Black birch saplings are very hard to source.
 - Calls for loam, seed, and mulch. Loam and mulch will be “fill in flood zone”.
 - The pre-hearing site visit found:
 - What appears to be the relatively recent removal of 1 or more mature trees from along the stream side in the area that is now a “playground”. Note: this area is outside the subject property line.
 - Signs of yard waste dumping beyond the fence into the stream corridor.
- Staff Recommendations:
 - Seek clarification on recent tree cutting in “playground area”. Consider planting of 1-2 trees to mitigate.
 - Require scarification (rather than loam) prior to seeding.
 - Require removal of historic dumped yard waste.
 - Require spaces between deck boards and stone under the deck to ensure infiltration.
 - Discuss whether stone bounds should be required.
 - Once all concerns have been addressed, consider closing the hearing and issuing an OOC with special conditions.
 - Stone stairs must be replaced with open wooden stairs as per plans; wood stairs may not be fully enclosed, as per the Commission’s Flood Storage policy.
 - The landscaping plan (planting, seeding, and mulch) must be installed as shown on the plans and narrative.
 - No new loam may be brought on to the site (because compensatory storage has not been provided).

4. (8:15) 56 Roosevelt Rd – NOI – rebuilding and expansion of sunroom -- DEP #239-???

- Owner/Applicant: Jordan Schwartz
- Representative: Jordan Schwartz
- Request: Issue OOC for proposed work.
- Documents Presented: Civil plan
- Jurisdiction: BLSF (122’ CNVD), City Floodplain
- Performance Standards
 - Bordering Land Subject to Flooding: 10.57
 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) Notwithstanding the provisions of 310 CMR 10.57(4)(a) or (b), no project may be permitted which will have any adverse effect on specified wildlife habitat sites of rare vertebrate or invertebrate species, as identified by procedures established under 310 CMR 10.59.
 - Newton Conservation Commission’s 25-Foot Naturally Vegetated Buffer (NVB) Policy. “GOAL of this POLICY: To fully protect the vital functions and values of Newton’s wetland resource areas by protecting and/or re-establishing a naturally vegetated buffer around all wetlands, waterbodies, and waterways...”
- Proposed Project Summary: replacing an existing 3-season sunroom with a slightly larger sunroom.
 - Remove 7’ x 12’ sunroom on pilings. Construct 7’ x 15.2’ sunroom on piers with lattice as screening.
 - Remove 1” from 173 sf (14.4 cf) of the front yard to provide compensation for the additional pilings.
- Staff Notes
 - Staff feel that the addition is small and appropriately constructed on pilings to minimize fill in Flood Zone.
 - Staff feel that the creation of compensatory storage might be too disruptive. Do not require the compensatory storage to be provided as proposed, instead allow the applicant to remove excess material from under the existing sunroom and expanded sunroom footprint.

- Staff Recommendations: Close the hearing and issuing an OOC with special conditions.
 - Lattice must comply with the Commission's Flood Storage policy of 50% open space.

5. (8:35) 152 Suffolk Rd – NOI -- DEP #239-???

- Owner/Applicant: Yelena Dudochkin
- Representative: Tim McGuire, Goddard Consulting
- Request: Issue OOC for proposed work.
- Documents Presented: Plans, arborist report, site photos.
- Jurisdiction: Riverfront Area, BVW, Buffer Zone
- Performance Standards:
 - **Riverfront Area: 10.58(4)**
 - (c) Practicable and Substantially Equivalent Economic Alternatives.
 - (d) No Significant Adverse Impact.
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 - a. At a minimum, a 100' wide area of undisturbed vegetation is provided... preserved or extended to the max. extent feasible...
 - b. Stormwater is managed ...
 - c. Proposed work does not impair the capacity of the riverfront area to provide important wildlife habitat functions. ...
 - d. ... incorporating erosion and sedimentation controls and other measures to attenuate nonpoint source pollution.
 - **BVW: 10.55(4)**
 - work in a Bordering Vegetated Wetland shall not destroy or otherwise impair any portion of the BVW
 - The ConCom may permit the loss of up to 5000 square feet of BVW when said area is replaced IF:
 1. The area is equal;
 2. The ground water and surface elevation are approximately equal;
 3. The overall horizontal configuration and location are similar;
 4. There is an unrestricted hydraulic connection to the same water body or waterway;
 5. It is in the same general area of the water body;
 6. At least 75% of the surface of the replacement area shall be reestablished with indigenous wetland plant species within two growing seasons; and
 7. The replacement area is provided in a manner which is consistent with all other regs in 310 CMR 10.00.
 - The ConCom may permit the loss of a portion of BVW when;
 1. Said portion has a surface area less than 500 square feet;
 2. Said portion extends in a distinct linear configuration ("finger-like") into adjacent uplands; and
 3. In the judgment of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposal.
 - No project may be permitted which will have any adverse effect on specified habitat sites of rare species
 - No work shall destroy or otherwise impair any Area of Critical Environmental Concern
- Proposed Project Summary:
 - Within RFA: construct a 20'x40' swimming pool, patio with fire pit, retaining wall, 6' metal and cedar post fence, 18'x25' greenhouse, and planting. Total new impacts to the outer riparian zone will total ±2,976sf.
 - Within BZ to BVW: construct a sports court, greenhouse, in-ground trampoline, retaining wall, and fence.
 - Overall: remove 28 mature trees, some of which are ailing or dead.
 - Overall: grading and the construction of retaining walls.
 - Overall: mitigation and enhancement plantings.
- Staff Notes:
 - Site history:
 - The rear of this parcel is part of the greater Webster/Houghton/Hammond Conservation Area.
 - In 2018, based on plans that, as it now turns out, had inaccurate wetland lines, Jennifer Steel provided Administrative Approval for tree removal. Tree removal and significant grading occurred in what is now known to be the outer riparian zone and outer buffer zone. Some damage done to tree(s?) that remain.
 - Plans

- At staff's request, the applicant team sent revised plan sheets clearly showing all existing and proposed conditions overlaid.
- The existing conditions do not show all grading within the Commission's jurisdiction.
- Grading shown on the plans does not match existing grading at site -- there is a retaining wall that is nearly vertical in places, but that is not reflected on the plans.
- Plan details show entrenched silt fence notes indicate silt fence and wattles.
- Engineering: will, in all likelihood, require on-site drainage because of the expansion of hardscape of over 400 square feet.
- Overall, the nature of the proposed alterations (cutting, grading, and intensity of use) in and around the wetland do not reflect the interests of the Act or the Commission's policies.
 - 10.58(4)(a) The application states that the work will contribute to the protection of the interests of the Act, but does not clarify how.
 - 10.58(4)(c) The application does not show any efforts to reduce the scale of the project.
 - Cutting and planting in wetland seems inappropriate.
 - Tall fescue is shown beyond the erosion control/limit of work and is vulnerable to being maintained as lawn over time or by new owners.
 - There is no clear consideration given to how access would be provided for the extensive tree cutting and planting proposed in the wetland and buffer zone area shown to be beyond the erosion control line.
 - Privacy fencing is proposed right up to the wetland line, cutting off this area from the larger conservation area.
- Tree cutting: Staff made a preliminary site visit with Marc Welch, City Forester, and gave input regarding trees cited as hazards that do not seem to pose a hazard but the tree cutting plan does not appear to reflect that input.
- Staff Recommendations:
 - 10.58(4)(a) The application must clarify how the work will contribute to the protection of the interests of the Act.
 - 10.58(4)(c) The application must present alternatives possibly including a reduced the scale of the project.
 - Plans:
 - The applicant must present one consolidated and internally consistent set of plans with details.
 - Grading must be accurately surveyed and shown in its entirety on the plans.
 - Stormwater management must be incorporated and added to revised plans.
 - Cutting and planting should be revised to limit intrusion into the BVW, buffer zone, and RFA.
 - Plans must illustrate not only the desired end product, but the process of achieving that goal with all access, laydown, and protections clearly illustrated.
 - Tree cutting plans should be revised -- many trees could and/or should be preserved.
 - Tree protection details for trees to be preserved must be included.
 - Given the significant earth moving and grading, ESC should be extended and should consist of entrenched silt fence and stake compost socks.
 - "Tall fescue" ought not be shown beyond the erosion control/limit of work.
 - Bounds should be added to clearly delineate "developed areas" and areas to be left natural.
 - Fencing should be limited within RFA and buffer zone to optimize the habitat value of the area.
 - The Commission could consider a peer review of the site plans, arborist's report, and planting plan.

6. (9:00) 55 Bernard St – unpermitted tree cutting in RFA – DEP #239-871

- Owner: Ivan Brown Representative: Ivan Brown and Natalie Ducharme-Barth, Merrifield Garden & Design
- Request: Remedy violation by accepting a planting plan
- Documents Presented: none
- Jurisdiction: RFA
- Staff Notes: The owner has met with Conservation staff and has retained a landscaper to develop a plan.
- Staff Recommendations: If a plan is presented, review and approve it as appropriate to allow for planting to occur in the spring and the "2-growing season clock to start".

7. (9:15) 30 Selwyn Rd – Minor Plan Change Request – replace chainlink fence with wooden fence – DEP #239-851

- Owner/Applicant: Dan Bermenko
- Representative: Dan Bermenko
- Request: Allow the replacement of the existing chain link fence along the stream with a wooden privacy fence.
- Documents Presented:

- Jurisdiction: Flood Zone, RFA
- Performance Standards: Compensatory storage, ConCom’s policy on construction in flood zone, and don’t bar wildlife.
- Staff Notes:
 - The project site has a “credit” of 22 cubic feet of flood storage.
 - Roughly 2 feet of the proposed fence will be within the flood elevation
 - The fence will be parallel to the stream, ~83 feet long, elevated 6” to allow the passage of wildlife, and wood.
 - Louvers -- 10 4x4x24”posts, 8 1x5x996” slats = roughly 25 cu feet
 - Slats -- 10 4x4x24”posts, 8 1x3x996” slats = roughly 15 cu feet
 - Lattice -- 10 4x4x24”posts, lattice = little fill in floodplain
 - Staff did not feel comfortable giving Administrative Approval for this a minor plan change.
- Staff Recommendations: Consider what might be approvable as a minor plan change.

8. (9:30) 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, however, the bounds have been set flush with the ground and so are not visible as required. Staff are awaiting word that new raised bounds have been set.
- Staff Recommendations: Once new bounds have been confirmed, vote to issue a complete COC.

9. (9:35) Preliminary Informal Discussion - Various Parks, Recreation & Culture Athletic Field/Facility Improvement Projects

- Representative: Luis Perez-Demoritzi
- Request: Provide the Conservation Commission with a preview of the pending field improvement projects that are likely to require Conservation Commission permitting.
- Staff Notes: There are several field improvement projects in the planning stages: Gath Pool, Crystal Lake accessibility and Left Beach improvements, Warren House fields, and NSHS/Brown/Oak Hill fields.
- Staff Recommendations: Provide preliminary feedback.

II. CONSERVATION AREA DECISIONS

- 10. Old Deer Park - Ira Wallach Memorial Trail** – what posts would the Commission like to use.

III. ADMINISTRATIVE DECISIONS

11. Minutes of 12/9/21 to be approved

- Documents Presented: Draft 12/9/21 minutes as edited by Susan Lunin
- Staff Recommendation: Vote to approve the 12/9/21 minutes.

IV. ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

V. WETLANDS UPDATES

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