

CONSERVATION COMMISSION MINUTES

Date: Tuesday, December 20, 2022

Time: 7:04 pm – 9:09 pm

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

With a quorum present, the meeting opened at 7:04 pm with Dan Green presiding as Chair.

Members Present: Dan Green (Chair) present until 8:30 pm, Kathy Cade, Judy Hepburn, Jeff Zabel, Ellen Katz, Leigh Gilligan

Members Absent: Susan Lunin (Vice-Chair), Associate Member Sonya McKnight

Staff present: Ellen Menounos **Staff absent:** Jennifer Steel

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

DECISIONS

A. WETLANDS DECISIONS

1. 65 Harwich Rd—Notice of Violation—demo/construction of SFH—DEP #239-743

- Owner/Applicant. Chitra Uppaluri
- Representative. Rich Kirby, LEC
- Site History.
 - OOC/COC were issued to developer in 2015/2016; now there is a different owner.
 - A Notice of Violation (NOV) was sent on 10/19/22
 - stating that the removal of the fence and the natural vegetation in the 25' buffer zone was unpermitted alteration;
 - noting that there were requirements for tree preservation; and
 - requesting that a plan be submitted by 11/30/22, for restoring the site to the originally approved conditions.
- Request. Discuss possible remedies to bring the site into compliance.
- Documents in packets. Locus map, highlighted plan
- Additional documents presented at meeting. Site photos.
- Jurisdiction. BZ
- Presentation and Discussion.
 - Prior to hearing, staff confirmed that (1) the mature trees that were due to have been preserved were preserved, (2) the fence required in the Order of Conditions had been removed, and (3) lawn had been extended into what should have been the protected 25' Naturally Vegetated Buffer (NVB). Staff had not been able to access the back yard to confirm the presence of the bounds shown on the as-built plan.
 - If a new plan is proposed, the wetland line will need to be confirmed with soil samples, and it may be closer to the house than shown on the old plan.
 - Current owner noted the differences in wetland line demarcation along this street; Commissioners emphasized that some houses/owners have been through permitting process and some have not, and that every property is different.
 - Current owner noted that the site changes occurred during COVID as an attempt to expand outdoor activities.
 - Rich Kirby to continue working with the owner, restoration plan is almost complete and will incorporate comments from recent conversations with Staff. Rich will finalize the restoration plan and submit it to Staff.
 - Per the Commission, if homeowner is just restoring, putting things back the way they were, it can be approved administratively.
- Consensus (No vote):
 - Await restoration plan.
 - Enforcement Order may be necessary to ensure that a) administratively approved remedial work will be completed or b) if owner wishes to propose anything other than remedial work, to ensure work is done as part of new NOI/OOC.



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*

**Associate
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2. 37 Truman Rd—NOI—demo/construction of SFH—DEP #239-944

- Owner/Applicant. David Koren and Refael Baranets
- Representatives. John Rockwood, EcoTec
- Project Summary.
 - A single-family house with attached garage and other site features will be demolished, and a new SFH with two-car garage and accessories will be constructed.
 - The larger house will have a smaller foundation than the existing house, with the balance of the house supported on piers above the floodplain.
 - The degraded area in the Riverfront Area will increase by 482± sf
 - Stormwater improvements and mitigation plantings will address project-related impacts.
 - Proposed enhancement planting area is 1,600± sf and includes 83 native plants (including 16 evergreen trees and 7 deciduous canopy trees).
 - Stormwater is due to be addressed with two leaching galleys fed by drain lines.
- Request. Issue OOC.
- Documents in packets. Locus map, highlighted plans.
- Additional documents presented at meeting. Site photos.
- Jurisdiction. RFA, BLSF, BZ to Paul Brook.
- Presentation and Discussion.
 - The entire site is within the Flood Zone.
 - The plans indicate that “net cutting” will result from a slightly smaller foundation (with the remainder of construction on piers) and lowering the back yard.
 - The entire site is within Riverfront Area.
 - The 11,757± sf parcel is previously developed and partially degraded.
 - The project will increase degraded area by 482± sf.
 - In accordance with 310 CMR 10.58(5), this project will:
 - (b) manage stormwater according to standards
 - (e) work shall not exceed the ... degraded area ... except with restoration of at least 1:1 or mitigation of at least 2:1
 - The portion of work which will be closer to the river than existing (patio) was addressed via mitigation.
 - 4 large deciduous canopy trees (totaling 115”), 8 hemlocks (totaling 49”), and 2 dead hemlocks will be removed.
 - Staff have concerns that the proposed infiltration/leaching system could be in groundwater, as SHGWT is difficult to determine at this time due to drought.
 - A revised O&M plan has been received, in response to Staff comments.
- Vote: To close the hearing and issue an OOC with the state’s required conditions, Newton’s special conditions, and the following site-specific special conditions. [Motion: Zabel, Second: Gilligan; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (abstain), Katz (aye), Green (aye), Vote: 5:0:1].
 - Adequate protection must be installed for the crabapple tree and the black cherry sapling. This may include the addition of orange snow fencing near the drip line, boards tied to the trunk, and/or mulch and plywood placed over the roots. Adequate protection must be confirmed at pre-construction site visit with staff approval.
 - Additional test pits will be excavated before infiltration systems are installed, to confirm seasonal high ground water and to ensure that the height of proposed systems meet the required 2-foot separation. Test pit logs shall be provided to Conservation Staff.
 - Four additional native 2” caliper canopy trees will be added to planting plan outside the mitigation planting area. Species, sizes, and locations will be provided to staff prior to installation.
 - The O&M plan shall be a perpetual condition and part of OOC.
 - Further alteration of the mitigation area is prohibited.

3. 81 Albemarle Rd—NOV—asphalt paving not in compliance—DEP #239-762

- Owner/Applicant. Chirag Bhatt and Heena Pandya
- Representatives. same
- Request. Discuss possible paths to compliance.
- Documents in packets. Sketch of permitted driveway superimposed on picture of driveway as it has been installed.
- Additional documents presented at meeting. None
- Presentation and Discussion.

- This COC request was missing paperwork—the applicant’s engineer died and did not create an as-built.
- A site visit on 11/15/22 found that the site was in substantial compliance with the approved plans except for the driveway which was installed larger than the layout on the approved plan.
- The OOC expired on 9/21/21 and so cannot be amended or extended.
- At the 12/1/22 meeting the Commission noted that there were two options for the applicant/owner to bring the site into compliance with the regulations.
 - Remove the excess asphalt
 - Submit an NOI for the driveway expansion and the installation of a permanently bounded mitigation planting area of at least 2:1.
- Staff issued a memo to the applicant/owner informing them of an enforcement action and its requirement to bring the site into compliance by July 2023 with one of the two options identified.
- Consensus (No vote):
 - The owners indicated they will install a permanently bounded mitigation planting area, so an EO and an NOI/OOC will be required.
 - The Commission asked for a new Notice of Intent application by 3/31/2022.
 - Enforcement Order will have to be voted at future meeting to ensure that work is done at as part of new NOI/OOC.
 - The Commission emphasized that the new NOI application should be created and submitted with professional guidance.

4. 31 Greenwood Rd—Request for COC—existing barn converted to SFH—DEP #239-849

- Owner/Applicant. 31 Greenwood Realty LLC and Anne Greer
- Request. Issue COC.
- Documents in packets. None
- Additional documents presented at meeting. None
- Presentation and Discussion.
 - All necessary paperwork was received for this COC request.
 - A site visit on 9/20/22 found that the site was in substantial compliance with the approved plans.
- Vote. To close the hearing and issue a COC. [Motion: Cade, Second: Gilligan; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (aye), Katz (aye), Green (aye), Vote: 6:0:0].

5. 230 Lake Ave—Request for COC—sewer line added in Buffer Zone—DEP #239-938

- Owner/Applicant. Karen Ayas
- Request. Issue COC.
- Documents in packets. None
- Additional documents presented at meeting. None
- Staff Notes.
 - Adequate paperwork was received for this COC request.
 - A site visit on 12/6/20 found that the site was in substantial compliance with the approved plans.
- Vote. To close the hearing and issue a COC. [Motion: Cade, Second: Zabel; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (aye), Katz (aye), Green (aye), Vote: 6:0:0].

6. 34 Hyde Ave—Violation and Enforcement Order—Hyde Brook stream blockage—no DEP #

- Owner/Applicant.
- Request. Issue EO.
- Documents in packets. None
- Additional documents presented at meeting. Photographs.
- Site History/Staff Notes.
 - Staff received complaints from abutters that the Hyde Brook was blocked. Photo evidence was provided.
 - Staff verified the blockage, and Newton DPW has cleared the stream in the past.
 - Staff have made multiple attempts to talk with owner and rectify the situation.
 - Photos presented span fall 2021-fall 2022.
 - Situation has not been rectified therefore Staff recommend proceeding with Enforcement Order.
- Vote. To issue an Enforcement Order. [Motion: Katz, Second: Zabel; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (aye), Katz (aye), Green (aye), Vote: 6:0:0].

7. 0 Commonwealth Ave—COC Request—Islington Force Main—DEP #239-904

- Owner/Applicant. City of Newton
- Request. Issue COC.
- Documents in packets. None
- Additional documents presented at meeting. None
- Staff Notes.
 - All necessary paperwork was received for this COC request.
 - A site visit on 12/8/22 found that the site was in substantial compliance with the approved plans.
- Vote. To close the hearing and issue a COC. [Motion: Katz, Second: Gilligan; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (aye), Katz (aye), Green (aye), Vote: 6:0:0].

8. Minutes to be approved

- Documents in packets. Draft 12/1/22 minutes as edited by Jeff Zabel.
- Staff Recommendation. Vote to approve the 12/20/22 minutes.
- Volunteer. Who will volunteer to review the 12/20/22 minutes? Leigh Gilligan volunteered.
- Vote. To approve the 12/20/2022 minutes. [Motion: Cade, Second: Katz; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (abstain), Hepburn (aye), Katz (aye), Green (aye), Vote: 5:0:1].

9. 8:20 – Watertown Dam -- informal presentation by Charles River Watershed Association (CRWA)

- Representatives. Robert Kearns, Zeus Smith
- Proposed Project Summary. There is interest in removing the Watertown Dam. CRWA is currently leading the effort.
- Request. Listen to presentation and consider supporting efforts to remove the Watertown Dam.
- Documents in packets. Locus map.
- Additional documents presented at meeting. Robert Kearns' presentation.
- Jurisdiction. Not relevant at this point in time, but should removal come to pass, the Commission will need to permit work in Land Under Water, Bank, RFA, BLSF, BVW, and BZ.
- Presentation and Discussion.
 - There is interest in removing the Watertown Dam to restore ecological integrity and connectivity.
 - CRWA is asking that the Commission consider sending a letter in support of this dam removal, like several other Commissions, City Councils, and conservation-minded nonprofit organizations have already done.
 - Commissioners asked questions about impacts to bird populations, and asked specifically if Mass Audubon has voiced support for this dam removal.
 - Commission raised points about unintended consequences, citing tree removals that are occurring pre-emptively in anticipation of new proposed tree ordinance. (Councilor Julia Malakie was present and asked that people send her examples/evidence.)
 - Staff raised questions about ecological restoration with plants following dam removal, i.e. replanting with natives and monitoring, so that the changed stream corridor does not become overtaken with invasives.
- Consensus. Consider voting on a letter of support at a future meeting, when all Staff are present, and outstanding questions have been answered/explored.

B. 8:50 – CONSERVATION AREA DECISIONS – none at this time

C. 8:50 – ADMINISTRATIVE DECISIONS – none at this time

D. 8:55 – ISSUES AROUND TOWN DECISIONS – none at this time

UPDATES

E. 8:55 – WETLANDS UPDATES

F. 8:55 – CONSERVATION AREA UPDATES – Staff continue to work on map updates and trail signs.

G. 8:55 – ADMINISTRATIVE UPDATES

H. 8:55 – ISSUES AROUND TOWN UPDATES

ADJOURN Vote to adjourn at 9:09 pm. [Motion: Zabel, Second: Gilligan; Roll-call vote: Cade (aye), Zabel (aye), Gilligan (aye), Hepburn (aye), Katz (aye); Vote: 5:0:0].