

CONSERVATION COMMISSION MINUTES

Date: Thursday, March 2, 2023

Time: 7:00pm

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

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

Members Present: Dan Green (Chair), Susan Lunin (Vice-Chair), Kathy Cade, Judy Hepburn, Jeff Zabel, Ellen Katz

Members Absent: Leigh Gilligan, Sonya McKnight (Associate Member)

Staff present: Jennifer Steel, Ellen Menounos

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

DECISIONS

A. WETLANDS DECISIONS

1. 7:00 – 370 Quinobequin Rd – NOI – First and second floor additions and new deck – DEP #239-948

- Owner/Applicant. Seth Kosto
- Representatives. Mitch Maslanka, Goddard Consulting; Bruce Bradford from Everett M Brooks (not present)
- Proposed Project Summary.
 - First floor addition over existing rear deck
 - Second floor addition over existing house
 - New deck off rear of house
- Request. Issue OOC.
- Documents in packets. Locus map, highlighted plans.
- Additional documents presented at meeting. Site photos.
- Jurisdiction. BLSF, Buffer Zone, BVW (no work planned), RFA (no work planned)
- Presentation (Staff) and Discussion.
 - Staff showed highlighted site plans and site photos and summarized the proposed work.
 - Staff noted several problems that must be addressed before the project can be properly assessed.
 - The rear lawn (and hockey rink) extend off-site into a Conservation Restriction. The yard and amenities should be removed and restored with native trees and shrubs. The representative noted that the lawn was in existence when the owner purchased the property in 2012. They offered to remove the rink and allow natural revegetation of the encroaching lawn area.
 - The wetland was flagged along the “shrub” line, but likely comes well into the yard. A site visit must be arranged with Staff to look at the soils in the back yard.
 - The BLSF elevation (according to the FEMA flood profile) is 65.5’ NAVD88 which is well beyond the rear of the property and encompasses the whole property. The datum and elevations should be confirmed/corrected and cuts and fills considered in a revised application. The application should clarify the nature of the proposed first floor addition and provide basement or slab information so that issues associated with fill in floodplain and likely high groundwater can be considered and addressed.
 - The application states that the addition will only add 89 sf of impervious area because of building over the existing deck. This imperviousness or perviousness of the existing deck should be verified/clarified.
 - The application states that all reasonable efforts have been made to avoid adverse impacts to the Buffer Zone, but if the proposed deck were relocated, a 37” oak could be saved.
- Vote to continue the hearing to April 11 to allow the applicant to: meet on site with staff to determine the edge of wetland, develop a restoration plan, revise grading information, and address cuts and fills if necessary. [Motion: Katz, Second: Zabel, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

2. 7:30 – 50 Grace Rd – NOI – teardown/rebuild SFH – DEP #239-949

- Owner. Armand Petruzzello of 50 Grace Rd Investments LLC (not present)



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
Member**
Sonya McKnight

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- Applicant. Wendell Phillips of Phillips Luxury Homes
- Representatives. Edmond Spruhan, Engineer (not present)
- Proposed Project Summary.
 - Demolish existing single-family home and all site improvements
 - Construct new single-family home and driveway in the same location
 - Remove trees within RFA
 - Create mitigation planting area
- Request. Issue OOC.
- Documents in packets. Locus map, highlighted plans.
- Additional documents presented at meeting. Site photos.
- Jurisdiction. Riverfront Area
- Presentation (Staff) and Discussion.
 - Staff showed highlighted site plans and site photos and summarized the site conditions and proposed work.
 - There is an existing OOC for a similar teardown/rebuild (DEP file #239-772) issued on 12/23/2016 and was due to expire on 12/22/2019. The permit was extended 3 years to 12/22/2022. The permit got the 462-day “COVID bump” and so is now due to expire on 3/28/24. The permit was never recorded, so is not valid. Therefore, the tree removal conducted on the site (see below) is in violation of the Act.
 - Staff noted a few concerns.
 - No demolition or construction has been undertaken, but there has been tree removal (the row of hemlocks, a pine tree, and a deciduous tree) since the OOC was issued that must be taken into account in describing/understanding “existing” conditions and in determining appropriate “mitigation”.
 - Saw Mill Brook was flagged in 2016. Staff would like to review fresh/current wetland flags.
 - The plans indicate that most of the “property line” trees are due to remain, but many are within the limit of work line. The limit of work line should be moved and proper tree protection included on the plans, or more realistic tree loss should be anticipated and compensated for in the plans.
 - Plans call for staked straw wattles. For a complete teardown/rebuild, more robust erosion controls are warranted.
 - The plans show grading changes across the entire site. It seems as if the limit of grading could be kept much closer to the proposed house and so help protect existing trees.
 - Impervious area is stated to increase by 454 sf. Mitigation for such an increase is required at a ratio of at least 2:1, so 908 or more sf of mitigation is required (and more may be required by the Commission). The mitigation area shown on the plans is surrounded by mature trees and cannot fit the proposed 10 new trees. The mitigation area should be enlarged, and a thoughtful mitigation planting plan with carefully selected native trees, native shrubs, and native vegetation should be created.
 - The “old” OOC will need to be closed with a COC at some point, but Commissioners opted to leave the existing Order of Conditions in place so that enforcement for the tree removal could be pursued if necessary.
- Vote to continue the hearing to March 23 to allow the applicant to develop revised plans (due March 13th): meet on site with staff to determine the edge of wetland, develop a restoration plan, revise grading information, and address cuts and fills if necessary. [Motion: Katz, Second: Zabel, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

3. 8:00 – 50 Grace Rd – COC – SFH tear down/rebuild – DEP #239-772

- Owner/Applicant. Wendell Phillips, 50 Grace Rd Investments LLC
- Representatives. none
- Request. Commission should discuss the appropriate timing of the issuance of a COC.
- Documents in packets. none
- Additional documents presented at meeting. Site photos
- Consensus. The “old” OOC will need to be closed with a COC at some point, but Commissioners opted to leave the existing Order of Conditions in place so that enforcement for the tree removal could be pursued if necessary.

4. 8:10 – 31 Greenwood St – COC-resign – Restoration of historic barn into SFH – DEP #239-859

- Owner/Applicant. Anne Greer
- Representatives. none
- Request. Re-issue COC, since original was lost.
- Documents in packets. none
- Additional documents presented at meeting. None

- Staff Presentation. The COC was signed on 12/20/22 and mailed on 12/21/22 to the requester, but the mailing address given is no longer operable.
- Vote to resign the complete COC. [Motion: Green, Second: Lunin, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

5. 8:15 – 0 Suffolk – COC – Hydroraking of Houghton Pond, trail enhancements – DEP #239-868

- Owner/Applicant. Newton Conservation Commission
- Representatives. staff
- Request. Issue COC.
- Documents in packets. none
- Additional documents presented at meeting. None.
- Staff Presentation.
 - Hydroraking was a success.
 - The improved trail is holding up well.
 - Use of the spoils worked out beautifully, revegetating the “corner” of Houghton Garden and the swimming pool in the Old Deer Park. Dan Green agreed.
- Vote to issue a complete COC. [Motion: Lunin, Second: Katz, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

6. 8:20 – 62 Olde Field – COC – Addition – DEP #239-385

- Owner/Applicant. Deborah and Jonathan Kay
- Representatives. none
- Request. Issue COC.
- Documents in packets. none
- Additional documents presented at meeting. None.
- Staff Presentation.
 - An as-built plan and a letter from an engineer have been provided.
 - The letter points out several differences between the approved plan (from 1999) and the as-built plan, but all were outside (above) the flood plain, so not relevant.
- Vote to issue a complete COC. [Motion: Lunin, Second: Zabel, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

7. 8:25 – 125 Wells – COC – parking expansion/work never initiated – DEP #239-863

- Owner/Applicant. Solomon Schechter School
- Representatives. Robert Finkel, Atty
- Request. Issue COC.
- Documents in packets. none
- Additional documents presented at meeting. none
- Staff Presentation. A site visit on 2/16/2023 confirmed that work was never initiated.
- Commission Discussion. Dan Green noted that large amounts of crumb rubber had been transported from the artificial turf field to areas (and trails) adjacent to the field (southern goal line and eastern sideline) and should be collected/cleaned up. Staff will send a letter to the owners requesting that.
- Vote to issue a COC for work never initiated. [Motion: Lunin, Second: Zabel, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]

B. CONSERVATION AREA DECISIONS

C. ADMINISTRATIVE DECISIONS

8. 8:30 -- Minutes to be approved

- Documents in packets. Draft 2/9/2023 minutes as edited by Dan Green.
- Vote to approve the 2/9/2023 minutes as edited by Dan Green. [Motion: Green, Second: Zabel, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]
- Volunteer. Jeff Zabel volunteered to review the 3/2/23 minutes.

D. ISSUES AROUND TOWN DECISIONS

9. 8:35 -- Tree Ordinance

- Issue. The City Tree Warden and Mayor’s Office are in discussion with City Council on possible revisions to the City’s Tree Ordinance. Commissioners are interested in creating as much consistency as possible.
- Documents in packets. Staff created a summary of the current version of the City Tree Ordinance for comparison with the Conservation Commission’s Tree Replacement Guidance.
- Additional documents presented at meeting. Comparison table.
- Discussion
 - Staff noted that the while the goals of the City and the Commission are similar (saving trees), the Commission’s authority is from the Wetlands Protection Act and so doesn’t exempt 1-4-unit residential properties as the City’s ordinance does.
 - Susan Lunin noted the occasional conflict between trees and solar canopies.
 - Ellen Katz noted that discussion of changes to the City Ordinance has prompted proactive tree cutting.
 - Kathy Cade noted the value of maximal consistency to limit confusion on the part of residents/applicants.
 - The City (Mayor and Marc Welch) has presented one version. City Councilors have presented another version. They are being discussed in Programs and Services and there will be a public hearing soon. It was noted that City Councilors Emily Norton and Julia Malakie would be happy to present to the Commission their Tree Ordinance proposal.

10.9:10 – Watertown Dam project letter

- Owner. DCR
- Representatives. Robert Kearns and Emily Norton, CRWA
- Request. CRWA is trying to garner support for the removal of the Watertown Dam. CRWA has asked the Commission to consider writing a letter of support.
- Documents in packets. Answers to the questions the Commission posed at the last meeting.
- Additional documents presented at meeting. none
- Presentation (Staff) and Discussion (Robert Kearns and Emily Norton).
 - This issue is not coming before the Commission as an application to be judged regarding the performance standards of the Wetlands Protection Act. It is coming before the Commission in their role as advocates “for the protection of watershed resources”. “Such commission shall conduct researches into its local land areas and shall seek to co-ordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work.” (MGL Chapter 40 Section 8C).
 - Staff feel it is an excellent case to engage with, given its potential for large-scale renaturalization of the largest wetland resource in Newton and its potential to improve water quality, flood control, native vegetation and wildlife habitat, etc.
 - Staff feel it could be beneficial to be involved early to understand the whole discussion prior to permitting obligations.
 - Staff doesn’t feel that engaging now, and even writing a letter of support, would preclude the Commission’s objective consideration if/when a wetland permit application is submitted. The dam is entirely within Watertown, so removal would occur in Watertown, but the effects of removal would impact Newton. Should a request to remove come to pass, the Commission would need to permit the anticipated alterations to Land Under Water, Bank, RFA, BLSF, BVW, and BZ.
 - The removal of contaminated sediments was discussed and clarified.
 - CRWA staff noted that Watertown’s and Waltham’s conservation commissions had issued letters of support for dam removal.
 - CRWA staff noted that when the Bemis Dam was washed out, the Newton Conservation Commission wrote that it should not be rebuilt because of fish habitat.
 - CRWA staff assured commissioners that the Moody Street Dam would not be removed, since it provides flood control.
 - Judy Hepburn noted that as a birder she was concerned about the effects of dam removal on birds, but was impressed by the answers that CRWA had provided to the Commission’s questions.
 - Kathy Cade (and Dan Green, in agreement) noted discomfort advocating for a project that the Commission will be asked to permit later. She noted that even a letter supporting further study would be perceived as support for removal.
 - Jeff Zabel asked to receive the reasons of those opposed to dam removal.
 - Susan Lunin noted general support for removal of unnecessary dams and the reestablishment of natural flows.
 - Ellen Katz opted to abstain from commenting.
 - Emily Norton noted that a letter that didn’t support actual removal would not be helpful at this stage but reiterated that further study would be pursued.

UPDATES

E. WETLANDS UPDATES

- EO follow-ups

- 34 Hyde Ave. has cleared the stream channel,
- 65 Harwich has a restoration plan,
- 158 Otis has a restoration plan, and
- J Steel had a conversation with DCR about Parkway Road and the Newton Yacht Club and should have received information but hasn't yet.
- Eos -- next round
 - 24 Glen – remove big bridge
 - 255-257 Newtonville Ave – plant trees and shrubs

F. CONSERVATION AREA UPDATES

- Essex Horticulture special projects
 - Webster: Elgin Road access grading and drainage – awaiting design and estimate
 - Norumbega: post and wire fences to protect slope – awaiting design and estimate
 - Saw Mill Brook: Vine Street parking lot fence (and plantings) – awaiting design and estimate
 - Norumbega: dense-grade the main loop – awaiting estimate
 - Oakdale Woods: plant to reclaim encroachment – ready to go in spring
 - Old Deer Park: fence panel removal for access to the Ira Wallach trail – ready to go in spring
- Big capital projects
 - Old Deer Park: fence removal (after Hammond Pond Parkway is done)
- Trailhead signs and parcel maps
 - Maps are nearing completion with improvements re accessibility thanks to coordination with the OSRP Trails Subcommittee.
- Accessibility improvements
 - Norumbega: dense-grade the main loop
 - Upper Falls Riverwalk: dense-grade the Saco Street entrance?
- Kessler Woods Trail
 - Staff are in talks with Chestnut Hill Realty to secure a public access easement to Lagrange Street
 - Staff must release new RFQ for the boardwalk and bridge portion of the trail connecting to Harwich Road

G. ADMINISTRATIVE UPDATES – Intern

- Spring High School Intern – Possibly establishing a program to take certain populations (elderly, grieving, disabled, veterans, EJ communities, at risk youth, etc.) into Conservation parcels for healing.

H. ISSUES AROUND TOWN UPDATES

- Flood Ordinance – Staff sent a draft to the state and are awaiting comments in response.
- Complete Streets – Staff are working with the new Transportation Planner to have issues of stormwater and trees/shrubs feature more prominently in the Complete Streets working group discussions (that focus on car, bicycle, and pedestrian safety).
- Stream name signs – Staff have asked the City's COO to look into possible source of funding for this (pilot) project.
- The Christina Street Bridge Project – is moving along with a congressional earmark and commitments from Northland.

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

- Beehives in the Classroom. Ellen Katz noted that she had attended an inspiring presentation about the use of hives in the classroom and felt good about supporting Mark Lewis's beekeeping and educational efforts (at the Old Deer Park).
- Jeff Zabel noted that his appointment was due to expire, but that he would "re-up" if others were in support. Others offered their support.
- Jennifer Steel noted that Kathy Cade's term was due to expire at the end of July. She will consider "re-upping".

ADJOURN Vote to adjourn at 10:15. [Motion: Lunin, Second: Katz, Roll-call vote: Green (aye), Lunin (aye), Katz (aye), Zabel (aye), Cade (aye), Hepburn (aye). Vote: 6:0:0.]