

Weston Conservation Commission - Public Meeting Minutes

April 14, 2020

Approved: April 28, 2020

Members Participating Joseph Berman (chair), Alison Barlow, Cynthia Chapra, Rees Tulloss, Josh Feinblum, Rebecca Loveys, Ellen Freeman Roth, and Rees Tulloss
Conservation Staff: Michele Grzenda

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order concerning imposition on strict limitations on the number of people that may gather in one place, this Conservation Commission meeting was conducted via remote participation using Zoom.com. The Town provided access to such meeting via a link to call in. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public could adequately access the proceedings.

7:30 p.m. Admin. Matters

1. Discussion and vote authorizing the Conservation Administrator to electronically sign WCC documents on behalf of the Commission – Motion by Cynthia Chapra to authorize the Conservation Administrator, Michele Grzenda to electronically and physically sign WCC Documents on behalf of individual Weston Conservation Commission members. The term WCC Documents as used in the preceding sentence means only those documents that the WCC voted to issue and sign at a public meeting during Covid-19 State of Emergency. The motion was seconded by Josh Feinblum. Roll Call Vote taken: unanimous
2. Signing of bills and documents
 - o Request for Partial Cert. of Compliance – 10 Hitching Post (337-465); motion by Ellen Freeman Roth; seconded by Josh Feinblum; Roll Call Vote taken: unanimous
 - o Request for Cert. of Compliance – 14 Pollywog Lane (337-851); motion by Cynthia Chapra; seconded Rees Tulloss; Roll Call Vote taken: unanimous
 - o Request for Cert. of Compliance – 681 Boston Post Road (337-1366) – Commission did not act on this matter as it was not associated with a house closing and a site visit was not conducted.

7:45 p.m. Notice of Intent – 39 Pine Street; R. Berry (337-1378); R. Waldron (Wetland Scientist)

The Applicant has filed this Notice of Intent for the construction of an unattached 668 s.f. garage and boulder retaining wall adjacent to the southerly side of the existing house. The proposed garage location is currently comprised of lawn and landscaping. The boulder retaining wall will be constructed 28-feet from the wetland edge and that is necessary to tie into the existing retaining wall. The wall then angles away from the wetland. The garage will be constructed 47 feet from the wetland edge. Erosion controls in the form of 12" straw wattles or 9" wattles with entrenched siltation fence will be installed prior to the start of work. Ellen Freeman Roth asked if some native plants would be installed after construction. The applicant is amenable to planting native plants along the slope. Motion by Josh Feinblum to close the hearing and issue an Order of Conditions approving the project; seconded by Ellen Freeman Roth; Roll Call Vote taken: unanimous

8:00 p.m. Request for Minor Plan Change: 12 Westerly Road (337-1295); Jay Lavoie; Engineer; P Barsamian (developer)

The Applicant wishes to extend their Order of Conditions and construct a sports court in the backyard to a new single-family house. The proposed work is contained within the approved limits of work/erosion control from the original approved site plan. The proposed work entails the addition of a sport court, play area, native species plantings, some minor grade changes, and retaining wall installation. The proposed work will increase the impervious area onsite and in turn increase the surface runoff from storm events to

the adjacent wetland resource area and abutters. To offset this increase in surface runoff, a recharge basin is being proposed below the sport court area. This was done to use yard space efficiently and provide adequate stormwater controls. This proposed stormwater system and development will be submitted to the DPW for their review under the Town of Weston Stormwater By-Law. Since the work being proposed is within the approved limits of work, and any potential increase in surface runoff is being offset by a new proposed drainage system, it is Mr. Lavoie's opinion that the proposed development will not have an adverse impact on the wetland resources. In addition, the Applicant is seeking to extend the order of conditions.

Some of the existing lawn will be planted with vegetation. Prior to planting, the applicant shall file a landscape plan for review and approval. The Commission may require additional planting in the formerly disturbed NDZ to the east of the house. In addition, the applicant requested the removal of 3 trees which have died. The trees are outside of the NDZ on the east side of the house and are near the road. The applicant will grind the stumps which are close to the NDZ, and restore the area with vegetation after. A revised plan shall be filed to show the existing drainage pipe, landscaping plan, trees to be removed and modified secondary erosion controls.

Some Commission members expressed concerns about this size of the project and whether this should be addressed through a formal Request for an Amended OOC. Mr. Lavoie indicated that the WCC had approved minor plan changes for pools in the past and the amount of disturbance for a sports court is similar to construction of a pool. Discussion ensued. Motion by Josh Feinblum to approve the sports court as a minor plan change; seconded by Ellen Freeman Roth; Roll Call Vote taken: unanimous. Motion by Cynthia Chapra to issue an extension on the OOC for two years; seconded by Rees Tulloss; Roll Call Vote taken: unanimous.

8:20 p.m. Administrative Matters - Use of Conservation Land during Covid-19 Emergency

Joe Berman updated that WCC on the recent leash order on Town Conservation Land imposed by the Emergency Management Team (EMT). On 3/30/20, several WCC members, the town manager, Select Board member Laurie Bent, ACO, and Kristin Barbieri met via Zoom to discuss whether or not to require a temporary leash order on Conservation Land during the town's state of emergency due to COVID-19. After an hour, the group determined not to require leashing but instead, asked the Agent and ACO to increase signage about social distancing and effective voice control (as it relates to dogs) at trailheads. On 3/25/20, the Agent was informed that the EMT was considering closing conservation land or requiring a leash order over concerns that social distancing was not being adhered to at Cat Rock and the Weston Reservoir. On 3/26/20, the Police Chief joined two WCD staff, the ACO, Kristin Barbieri, and Kara Fleming on a Zoom Call and indicated that an Emergency Order would be issued requiring all dogs be leashed on town land (including conservation land) and that Cat Rock would be closed to all non-residents. The agent informed the WCC by email later that day of the Emergency Management Team's decision. Joe Berman was surprised and outraged to see that the Town had made an Order with minimal consultation with the Agent and no discussion with the WCC. It was Mr. Berman's opinion that the EMT did not have the jurisdiction to do so. Mr. Berman stated that although the Select Board issued a state of emergency order, it does not give local official the ability to override the regulations of appointed officials. The WCC has exclusive jurisdiction over the use and regulation of Conservation Land. Mr. Berman feels the WCC must be included in these decisions. The WCC has the expertise over WCC land; Mr. Berman stated that social distancing has not been a problem on other properties besides Cat Rock and Weston Reservoir.

Mr. Berman suggested that the WCC discuss this Order and the WCC can adopt them or amend them and so notify the EMT of the WCC's decision. It was Mr. Berman's opinion that the town cannot restrict a property to Weston residents only. He also felt that the police should not enact rules that they have no ability to enforce.

Josh Feinblum expressed his agreement with Joseph Berman. Josh Feinblum stated that if EMT wishes to regulate Conservation land, they must request a meeting; they can impose a 48 hour order if they feel there is an emergency order.

It was Cynthia Chapra and Rees Tulloss's opinion that the EMT did not handle or communicate effectively with the Commission. Ellen Freeman Roth feels that dogs should be leashed. It was Alison Barlow's opinion that the Police Chief's Order was appropriate, even if it is hard to enforce.

Kristin Barbieri from WFTA is receiving numerous calls and emails opposing the Order. The Police dept. and the ACO are visiting Cat Rock and Weston Reservoir regularly. Ms. Barbieri suggested a briefing with the emergency team after-the-fact is in order. The Fire Chief, who was unable to attend the WCC meeting, suggested the WCC attend the Select Board meeting to discuss the matter.

Motion by Josh Feinblum to adopt Weston's Emergency Management Team's current conservation land management orders (i.e. leashing dogs and further restrictions at Cat Rock) during the State of Emergency and grant them authority to issue future emergency orders contingent upon communication with the Conservation Administrator and the WCC Chair. Chapter 40 Section 8 gives the Conservation Commission exclusive jurisdiction to regulate conservation land. Therefore, the WCC has the right to discuss, modify and/or ratify any future order at a WCC public meeting. This motion was seconded by Cynthia Chapra; roll call vote; unanimous

Mr. Berman will send a memo to the town manager, the emergency management team, and Select Board; and request discussion on said matter at the April 21st Select Board Meeting. (Memo attached to these Minutes).

Motion by Cynthia Chapra to request that the BoS allow the Conservation Agent to be considered Essential and be allowed to be part of the decision-making process for actions involving conservation land; seconded by Josh Feinblum; Roll Call Vote taken: unanimous.

9:15 p.m. 250 Boston Post road By-Pass – Opinion (337-1312)

This matter was continued to 4-28-20 at 7:35 p.m.

9:20 p.m. Admin. Matters, cont.

1. Land Management Updates
 - WFTA installed temporary trail closure and caution signs on two trails in Jericho Town Forest regarding Bikes and Wet Trails
 - Dog Poop barrels have been removed by DPW from Cat Rock, Burchard Park, and Weston Reservoir
 - Conservation Land tree concern at 16 Carroll Circle - Rees Tulloss and the Agent will investigate
2. License Discussion: Waltham Fields Community Farm use of Wellington Farm – Continued to 4-28-20 meeting
3. Motion by Josh Feinblum to approve the 3/17/20 Con Com minutes; seconded by Rees Tulloss; Roll Call Vote taken: unanimous

Meeting adjourned at 9:50 p.m.

WESTON CONSERVATION COMMISSION

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MEMORANDUM

TO: EMERGENCY MANAGEMENT TEAM, TOWN MANAGER, SELECT BOARD
FROM: JOSEPH BERMAN, WESTON CONSERVATION COMMISSION CHAIR
CC: WESTON CONSERVATION COMMISSION
MICHELE GRZENDA, CONSERVATION ADMINISTRATOR
SUBJECT: EMERGENCY ORDERS AFFECTING CONSERVATION LAND
DATE: APRIL 15, 2020

At its April 14, 2020 public meeting, the Weston Conservation Commission (WCC) discussed the recent Emergency Management Team's (EMT) Orders regarding certain conservation land regulations (i.e. leashing dogs on all trails and further restrictions at Cat Rock). Although many members of the WCC disapproved of the manner in which the regulations were announced, the WCC unanimously voted to adopt these recent Orders during the town's State of Emergency and further grant the EMT authority to issue future Emergency Orders contingent upon 24 hours' notice is given to the Conservation Administrator and the WCC Chair.

Please be aware that Chapter 40 Section 8C gives the WCC exclusive jurisdiction to regulate conservation land. The state of emergency does not modify or remove that authority. The WCC is uniquely positioned based on its experience and expertise to regulate conservation land. Therefore, the WCC has the right to discuss, modify, revoke and/or ratify any future Orders at a WCC public meeting.

I respectfully request time at your next Select Board's meeting on April 21, 2020 to discuss this matter. Additionally, I request that the Select Board designate the Conservation Administrator to be considered Essential and be allowed to be part of the decision-making process for actions involving conservation land. The WCC recognizes that under Governor Baker's emergency order, businesses and organizations that do not provide "COVID-19 Essential Services" are required to close their physical workplaces and facilities to workers, customers and the public. However, on March 31, the State revised its list of essential services to clarify that certain conservation work can proceed, whether performed on state, municipal, non-profit or private conservation lands. Specifically, the list now includes, "Workers who support the operation, maintenance and public safety of parks, forests, reservations, conservation restrictions, wildlife management areas, water supply protection lands, and other critical natural resources and open space for passive recreation."

The Conservation Administrator is fielding numerous calls regarding trail concerns, tree damage from the recent storm, and other active and ongoing land management projects. We understand that Weston's Emergency Team believes that managing conservation land is not an essential function for the Town of Weston to focus our attention on during the height of the crisis, unless of course something critical or a true emergency arises. We respectfully disagree with this assertion. To the contrary, management of the Town's Open Space is more crucial now than ever. The Conservation Commission is responsible for the stewardship and management of over 1,800 acres of Weston's Open Space. Most other municipalities around us consider the Conservation Office duties as an essential function. We recognize we are in unprecedented times but it is during times like this when we would hope the town would acknowledge the important role we play in providing outreach to our trail users, ability to respond quickly to conservation land matters, and be a team player when it comes to making regulation changes effecting Conservation land.