

Weston Conservation Commission - Public Meeting Minutes
January 7, 2020
Approved: February 25, 2020

Members Present: Alison Barlow (arrived at 7:50 p.m.), Joseph Berman (8:05), Cynthia Chapra, Josh Feinblum, Rebecca Loveys (arrived at 7:30 pm), and Rees Tulloss
Members Absent: Ellen Freeman Roth
Conservation Staff: Michele Grzenda
Others Present: See Sign-in Sheet

(Rees Tulloss took the role as Chair until Joe Berman arrived at 8:05pm)

7:30 p.m. Admin. Matters

1. Approval of 12/17/19 Con Com minutes – motion by Josh Feinblum to approve; seconded by Rebecca Loveys; vote 4:0:0
2. Gateways Farm 3-year license renewal; motion by Cynthia Chapra to approve the 3-year license; seconded by Josh Feinblum vote 4:0:0.

7:45 p.m. Notice of Intent – 98 Pine Street, Sule Cataltepe (owner); R. Waldron, Wetland Scientist
The Applicant proposes to construct a 400 square-foot (sf), two-story addition onto the northerly side of an existing single-family home. The proposed location is currently a stone wall, stone walk, landscape beds and lawn. Proposed construction activities will take place within the Inner Riparian Zone of the Riverfront Area (RA) and Bordering Land Subject to Flooding (BLSF) but outside the 25-foot No Disturbance Zone (NDZ). The existing house is entirely within the RA. In addition, the site is located within the Wetlands and Flood Plan Protection District (regulated by the Planning board). The project will displace 20.0 cubic feet (63.0 sf) of existing flood storage. The applicant proposes to compensate for displaced flood storage at a 1:1 cubic foot ratio. The proposed compensatory storage area is located within existing BLSF adjacent to the addition. The closest distance to Inland Bank is 26.0 feet. The total RA in site is 77,359 sf, and the RA disturbance within 100 feet is 400 sf. Erosion and sediment controls will be installed prior to any construction. Motion Cynthia Chapra to close the hearing and issue an Order of Conditions approving the project; seconded by Josh Feinblum; vote 4:0:1. Special conditions to include: (1) erosion controls in the form of 12-inch straw wattle or filter mitt shall be used; (2) the exact location of the excavation for the compensatory flood storage be field verified during the pre-construction meeting and the dilapidated pedestrian bridge over the stream be removed as it is falling into the water.

8:00 p.m. Notice of Violation - 57 Lexington Street

The new owner conducted brush clearing work in buffer zone and NDZ. The homeowner was issued a Notice of Violation in October and hired a wetland scientist to assess the amount of buffer zone altered. A portion of the newly altered buffer zone is within the NDZ and the owner is using this location to hang some ropes and swings for her children. Discussion ensued. The Commission asked that the owner file an RDA to allow for the after the fact clearing of the buffer zone and the restoration of the NDZ.

8:15 p.m. Notice of Intent – 15 Pinecroft Road, Fragale Building Corporation

The Applicant filed this Notice of Intent as part of a redevelopment of a new home. The applicant proposes to remove existing driveway and six trees within the 100-foot buffer zone to Bordering Vegetated Wetlands (BVW) and an Inland Bank (intermittent stream). Construction of a new lawn, stairs and retaining wall associated with the construction of a new home (outside the BZ) are proposed within the 100-foot buffer zone. Closest work is approximately 50 feet from a resource area. Two drywells are proposed to mitigate increased runoff due to additional impervious area. An erosion control barrier consisting of a Compost Filter Mitt is proposed. Motion by Rees Tulloss to close the hearing and issue

an OOC approving the project contingent upon a new plan being submitted that shows the foundation drain outfall; seconded by Cynthia Chapra; vote 6:0:0.

8:30 p.m. Notice of Intent – 95 Newton Street; Thanya Rajkopal (owner), Molly Obendorf, Stamski and McNary, Jesse Alderman, Attorney

The landowner of 95 Newton Street, Thanya Rajkopal, filed this Notice of Intent (NOI) to request a modification to the location of the buffer zone restoration areas which were required as part of an expired Order of Conditions (OOC) issued in 2015 (DEP #337-1272). That OOC was issued to a previous property owner in for work in the buffer zone which included replacement of a Sewage Disposal System along with a Restoration Plan for the previous owner's unpermitted clearing. The septic work was completed in 2016 but a Certificate of Compliance was not issued since the owner has not complied fully with the required restoration plan. Specifically, an area directly behind the existing single-family house and within the NDZ had been designated for restoration under the previous OOC but the owner had not complied fully with allowing that area to naturalize. The owner states that "weeds and tall grasses that attracted a proliferation of ticks overtook the area". The Applicant contracted Lyme Disease and a pest inspector found there to be an infestation of potentially Lyme-carrying ticks in the area of her residence and this portion of the restoration area next to her home. The owner met with the Commission in the Fall to discuss the possibility of amending the OOC to revise the restoration area location. Since the OOC had expired, the Commission was not willing to allow the expired permit to be amended. The Commission was amendable to the owner submitted a new NOI for thorough review and consideration of a restoration area location change.

The new NOI has been filed with an updated Restoration Plan which proposes to maintain a portion of the original restoration area directly behind the house as lawn, and restore an area of equal size (635 square feet) within the NDZ farther away from the dwelling. In reviewing the NOI filing, the Agent sent an email to the Applicant on 12/24/19 stating that she found the submission deficient in the following aspects:

- a. On Page 3 of the NOI specifically asks for "Size of proposed alteration" – the submitted response of temporary disturbance to plant native plantings is lacking appropriate information. A square footage amount shall be supplied.
- b. The submitted "Restoration Plan" plan was unclear and confusing - the note "Area to be restored" is the area mostly restored in 2015. The agent requested the plan be revised to make it very clear (with different symbols or colors) what was formally restored vs. proposed to be restored. The "restoration notes" on the plan are vague and inadequate.
- c. The Agent asked the applicant to provide a new sketch showing the planting area in a 1"=10' scale of the new or enhanced restoration areas. The plan should refer to a report that is clear and detailed. The report should include:
 - i. What type of erosion controls will be used to protect the adjacent resource areas?
 - ii. The invasive species removal program needs to be more specific– what time of year will the invasive species removal happen? What type of herbicide will be used?
 - iii. When will the planting commence?
- d. To assist the Applicant, the Agent emailed samples of restoration and monitoring reports that the WCC finds acceptable.

Ms. Obendorf presented a revised plan to the Commission and summarized the proposal. It was Mr. Alderman's opinion that the Commission is not required to receive said additional information requested by the Agent. The Agent questioned the proposed location of the new restoration area since it is currently vegetated. Mr. Alderman stated that the area to be restored was allowed to be lawn in the previous file so therefore, even though the area was not lawn, the WCC should consider this a viable area for restoration.

In addition, Ms. Obendorf presented a Request for Cert. of Compliance for the previous expired Order. The memo attached to the request indicated that the work associated with the installation of the sewage disposal system has been satisfactorily completed and is in substantial compliance with the OOC. The memo also stated that a new NOI was submitted to compete the restoration work associated with that filing. The Agent cautioned the Commission about acting on this Certificate until a clear understanding of how the new restoration area complies with the intent and spirit of the original Order. It was Mr. Alderman's opinion that the owner can not have to competing Orders recorded on her title. Discussion ensued.

The Agent and the Commission expressed their interest in reaching a compromise with the Applicant but that the new proposed restoration area should be in area currently lawn. An additional site visit was requested with the owner and Ms. Obendorf and the Commission expressed hope that an appropriate area could be identified which would achieve both the homeowners and Commission's restoration goals. The Applicant agreed to a continuance to January 21, 2020 at 7:40 p.m. and to meet with members of the Commission and staff to review the proposed restoration areas. Motion by Rees Tulloss to continue discussion on the Request for Certificate of Compliance and the NOI hearing until Jan 21st at 7:40 p.m. seconded by Josh Feinblum; vote: 5:0:0.

8:50 p.m. Cont. Notice of Intent - 0, 751 and 761 Boston Post Road, M. Romanowicz; Weston BPR LLC; Lars Unhjem; Rich Kirby, LEC Environmental Consultants; Rick Latini, HSH Associates (337-1369)

This is a continued hearing on the Notice of Intent for the construction of a 180-unit rental apartment community, including two apartment and ten townhome buildings and appurtenances. A portion of the work is within wetland resource areas and buffer zones. LEC submitted an NOI addendum (dated December 20, 2019). In response to the Commission's concern about the proposed retaining wall work partially shown to be within 25-feet of wetland resource areas, the Applicant has revised the plans in this area. As a result, the entire wall has been relocated at least 26-feet from the wetland edge. Only temporary wall construction access is proposed within 25-feet of the wetland edge and this is proposed to be restored after construction. Although the details and structural design of the wall has not been finalized, it is the Applicant's opinion that no more than 10-feet of area downgradient from the wall will be temporarily altered. The proposed block style retaining wall will be a maximum height of 14-feet and will only require the removal of topsoil in order to install the first course of blocks (vs. excavating for a footing). Work will be done from the upgradient side. No trees within 25-feet of the wetland are proposed to be removed as part of the wall construction. The applicant agrees to restore 1,790 s.f. of buffer zone downgradient from the proposed retaining wall. Only a small portion of this areas is within 25-feet of the wetland. The area will be seeded with a shade tolerant seed mix.

The only other work proposed within 25-feet of a resource area involved the creation of compensatory flood storage area (CFSA). The applicant is proposing to create greater than 1:1 compensatory flood storage. In response to the Commission's concern about the CFSA altering natural buffer zone, the Applicant has relocated it to a degraded and formerly filled wetland. The proposal outlined in LEC's Dec. 20,2019 supplemental report indicated that 8 trees within 25 feet of the wetland edge would to be removed. Several of these trees were to be removed to create a dug channel which would ensure that flood waters can reach the compensatory flood storage area by creating an unrestricted hydrologic connection. Currently the existing 12" pipe which connects Wetland C to the main wetland system is compromised (broken).

Since that time, Mr. Garner, the Commission's outside consultant, and the Agent met with Mr. Kirby in the field and made a number of changes which resulted in preserving all by one of the trees proposed to be cut as part of the compensatory flood storage creation. This was done by relocating the proposed channel further away from the trees to ensure their safety. In addition, it was decided that the couple of

trees growing within the filled wetland area could be preserved but reducing the amount of excavation occurring directly adjacent to them. This will result in a slight decrease in CFSA however, since the Applicant was compensating significantly beyond what the WPA requires, this reduction still meets the performance standards within the WPA. HSH is revising the compensatory flood storage numbers for the Commission and Pat Garner to review.

Overall, Mr. Garner opined that Although extensive site alterations are proposed 25 to 100-feet from the BVW edge the proposed project complies with requirements of the WPA. It largely honors the Commission's no-impact policy for work within the 25-foot buffer to BVW and the proponent has complied with the MassDEP stormwater regulations.

Lastly, Mr. Kirby reviewed the robust erosion control measures proposed along the limit of work. Mr. Garner has reviewed the supplemental information and submitted a peer review report dated **. It is Mr. Garner's opinion that the project as proposed meets the performance standards and the interests of the Wetlands Protection Act. He anticipates reviewing the final revised plans, calculations, and specifications information, which are to be available within a week.

Protection of the remaining land – Mr. Unhjem and Mr. Romanowicz summarized the overall parcel disturbance: The entire parcel contains 62 acres; 16.6 acres falls within the 100-foot buffer zone. Of that only 2.8 acres of buffer zone is proposed to be altered (17%). Mr. Unhjem shared his team's proposal that the remaining portions of the buffer, along with the entirety of the wetland complex and back upland areas is proposed to be permanently preserved. The Applicant has offered to subdivide the site and donate all non-developed land to the Weston Forest and Trail Association (WFTA). This amounts to approximately 45 acres of the land. Discussion ensued.

The Chair opened up the hearing to public comments. Dianna Chaplin expressed concern about the number of trees being removed; Ms. Chaplin hopes that WFTA does not accept the donation and feels it is a financial burden that the organization will be taking on to maintain the open space. Jonathan Buchman feels that a donation to a non-profit is a reasonable donation request. A resident expressed concerns about the number of trees being removed and the amount of lead arsenic identified on the property. Motion by Josh Feinblum to continue the hearing until 1/21/20 at 8:00 p.m.; seconded by Rees Tulloss; vote 5:0:0.

10:00 p.m. Admin. Matters

1. 10 Sudbury Road – Req. for Cert. of Compliance (337-1341)
2. 33 Rockport Road – The new owners wish to re-build their deck, install a generator, and remove three trees; The Agent believes this work fall under the minor activities provision in 310CMR10.03 and does no need a permit. Motion by Cynthia Chapra to administratively approve the request; seconded by Josh Feinblum; vote 4:0:0.
3. Conant Road/Pinecroft Road drainage improvement – Weston DPW proposed to install a new drainage pipe on the westerly end of Pinecroft Road, which will connect at the culvert under Pinecroft Road, will continue along a short section of Conant Road, and will connect to the existing 18-inch culvert under Conant Road. The proposed drainage will replace the existing off-road drainage on Pinecroft Road and broken drainage pipes off road along Conant Road. All work will be in the roadway, except for one mini catch basin which will be installed just off the edge of the roadway. All proposed work is shown on the plan titled Pinecroft Road and Conant Road Drainage and dated 1/2/2020. All work is permitted under Special Conditions for DPW General Operations and Maintenance (DEP File #337-1122). All work will be conducted in the dry. Erosion control will be installed before construction begins.
4. Conservation Land Encroachment - 90 Sylvan Lane -_On October 28, 2019, the Conservation Assistant (CA) observed a large pile of landscaping debris that appeared to be dumped from this

property and onto adjacent Conservation Land. The property owner was asked to remove the debris. The CA revisited the property on November 25, 2019, and the debris remained. The property owner was sent a letter by certified mail (receipt received) inviting them to attend the January 7, 2020 Conservation Commission meeting. The owner did not attend the meeting and has not contacted the Conservation Office. Motion by Rees Tulloss to send an official Conservation Land Encroachment Warning with a new deadline to remove the bush by April 1, 2020; seconded by Alison Barlow; 6:0:0.

Meeting Adjourned at 10:30 pm.