

Weston Conservation Commission (WCC) - Public Meeting Minutes

March 29th, 2022

Approved: April 12th, 2022

Members Participating: Joe Berman (Chair), Rees Tullos, Cynthia Chapra, Ellen Freeman Roth, Alison Barlow, Becca Loveys

Members Absent: Josh Feinblum,

Conservation Staff: Jordan McCarron

Notes: Pursuant to Chapter 22 of the Acts of 2022, which includes an extension of Governor Baker's March 12, 2020 Order Suspending Certain provisions of the Open Meeting Law, G.L. c. 30A, §18, this meeting was held via an online meeting platform (Zoom). No in-person attendance of members of the public was available.

Joe Berman (Chair) opened the meeting at 7:30 pm with an opportunity for public comment.

Hearing none, the following hearings were taken up in order:

Notice of Intent: 28 Bogle Street, DEP 337-1444; C. Ossikine & B. Kozinsky

John Rockwood, EcoTech, Inc., provided an overview of the project on behalf of the Applicant, which involves the partial demolition of the existing single-family house with attached one-car garage with both horizontal and vertical expansion of the house. The existing raised concrete and stone patio with landing to the rear of the house is proposed to be removed and a new two-story addition will be constructed in that area. Most of the proposed house expansion will occur as a second story addition over the existing structure; the balance will occur within a previously developed and degraded area of Riverfront Area (i.e., the raised patio) to the rear of the house outside of the 25' NDZ. A portion of the proposed work falls within the 100-foot Buffer Zone to a Bordering Vegetated Wetland and the 200-foot Riverfront Area to a perennial stream.

A 164± SF portion of the second story addition over the existing garage and the proposed 358± SF pavement removal and conversion to lawn will occur within the 25' NDZ. In addition, an infiltration system has been proposed to the rear of the house to address one inch of runoff from the roof of the new proposed two-story addition. The total impervious area on the site and within the Riverfront Area is proposed to be reduced by 355± SF from 4,232± SF under existing conditions to 3,877± SF under proposed conditions. The location of the house relative to the stream is unchanged; at the closest point, the existing/proposed house will be 24± feet from the stream.

As part of the project, existing pavement located between the existing garage and the existing limit of development is proposed to be removed and converted to lawn and a mix of native shrubs. Mr. Rockwood submitted a landscaping plan for this area, dated 3/29/22.

Rees Tulloss asked for confirmation that the existing vinyl fence, on the edge of driveway adjacent to the stream, allows for wildlife passage. Cynthia Chapra suggested that if the proposed grass in the area where the driveway is to be removed does not grow, the applicant might consider just letting the natural mosses creep-in.

A motion to close the Notice of Intent hearing for 28 Bogle Street, DEP 337-1444, and issue an Order of Conditions by Rees Tulloss; seconded by Ellen Freeman Roth. Roll call vote 6-0.

Cont. Notice of Intent: 120 Rockport Road, DEP 337-1439; B. Robinson

Brandon Robinson, Applicant, provided an overview of the plan revisions he submitted since his last hearing on 3/15/22. They included a plot plan with 1-foot spot grades along the edge and inner Buffer Zone of the Bordering Vegetated Wetland (BVW) on site as well as two hand-drawn sketches depicting two alternatives to the current design.

The first alternative sketch depicted the 1:1 Rock Stabilized Slope (RSS) retaining walls pulled back to between 7-feet and 15-feet from the BVW edge. The second alternative sketch depicted grading in lieu of retaining walls; this design placed the limit of work an average of 4-feet closer to the BVW than the first alternative design.

Angela Kearney, Minglewood, LLC, provided an overview of the impact to wildlife habitat, particularly small aquatic organisms, from the first alternative design utilizing RSS retaining walls. Ms. Kearney reviewed comments made by vernal pool ecologist Matt Burne submitted via e-mail to Ms. Kearney, which Ms. Kearney had provided the Commission via e-mail in advance of the hearing. According to Ms. Kearney, Mr. Burne expressed comfort with the RSS retaining wall design, indicating that as long as the RSS featured nesting cavities and clear pathways for migrating species, the RSS would not pose a barrier to wildlife movement. Mr. Burne also indicated that any salamanders utilizing the wetland or Potential Vernal Pool (PVP) adjacent to the project site would likely migrate through the Buffer Zone on the northern portion of the site based on species composition and aspect, not the area proposed for development.

Ms. Kearney then summarized the total impact from the project: 1,000 sq. ft. of permanent disturbance is proposed within the 25-foot No Disturb Zone (8% of the total land area within the 25-foot NDZ) while two-thirds of the property would be placed under permanent deed restriction. This area, Ms. Kearney explained, is contiguous with a 3.5 acre area of wetland/upland mix that is currently privately owned but could someday be acquired and permanently protected by the Town.

Pat Garner, consultant for the Conservation Commission, expressed his remaining unease with the proposed RSS retaining walls and their ability to allow passage of small aquatic organisms- he suggested a more traditional written report from Matt Burne, as opposed to comments via e-mail to the Applicant's consultant only, would make him more comfortable.

Mr. Garner indicated that either of the new alternative sketch designs submitted by the Applicant would likely be permissible by the DEP and that they represent a big technical improvement over the original submittal; additionally, Mr. Garner commented that the updated 1-foot contours on the Applicant's revised submission show that the proposed RSS retaining walls are not likely to impact the groundwater protection interest of the Wetlands Protection Act.

Mr. Garner expressed concern over a proposed foundation drain outlet, which the revised submissions show daylighting at approximately 4-feet from the edge of the BVW; Mr. Garner suggested either infiltrating the drain or pulling it further back from the wetland edge to prevent scouring and eventual sedimentation into the wetland.

Rees Tulloss expressed his opinion that the Applicant should seek a variance from the Zoning Board of Appeals (ZBA) to reduce the frontage setbacks and at least exhaust that option as well as reduce the footprint of the house to the maximum extent practicable before he would feel comfortable voting to approve the project.

Ellen Freeman Roth concurred with Mr. Tulloss's concerns and questioned whether allowing this type of project within the Commission's 25-foot No Disturb Zone would set a precedent for the Commission.

The Commission then discussed the relative impact of this project against other projects that the Commission has approved within the 25-foot No Disturb Zone. Joe Berman indicated that the Commission had likely never allowed this substantial of a development proposal in such close proximity to a wetland.

Both Mr. Robinson and his attorney, Jamey Buchanan Madeja, indicated that a variance through the ZBA would not be possible due to the required setbacks for his proposed septic and stormwater systems.

Ms. Madeja implored the Commission to consider the work that the Applicant and his consultants have already done on this project to take the environmental sensitivities of the site into account- she expressed her opinion that the DEP approves Buffer Zone work all the time on projects with far less scrutiny and care than that which has been given by the Applicant to this site. Combined with the permanent deed restriction that the Applicant has proposed on approximately two-thirds of the property, Ms. Madeja suggested that this project could act as the standard by which the Commission could evaluate future proposals within the 25-foot No Disturb Zone.

Mr. Robinson expressed dismay that the Commission had signaled that his proposal might be possible when he came before the Commission informally in March 2021 and now appeared to be reversing its position on the project. Mr. Berman commented that the conversation that was had between Mr. Robinson and the Commission at that initial meeting was highly hypothetical.

Ms. Madeja indicated that the proposed deed restriction would only take effect if the Commission is the issuing authority on an Order of Conditions- implying that should the Commission deny the project and the DEP issue a Superseding Order of Conditions allowing the project to proceed, the deed restriction would not take effect.

Mr. Berman suggested the Applicant explore a variance from the ZBA and return to the Commission at its April 26th hearing with fully engineered plans that could be reviewed a final time by Mr. Garner and voted on by the Commission.

A motion to continue the Notice of Intent hearing for 120 Rockport Rd, DEP 337-1439, at the request of the applicant, to 4/26/22 at 7:45 pm was made by Rees Tulloss; seconded by Ellen Freeman Roth. Roll call vote 6-0.

The following Administrative Matters were taken up at various points throughout the meeting:

Approval of Con Com minutes: 3/15/22

A motion to issue a Certificate of Compliance for 39 Country Drive, DEP 337-1410, was made by Rees Tulloss; seconded by Cynthia Chapra. Roll call vote 6-0.

Request for Certificate of Compliance-39 Country Drive, DEP 337-1410

A motion to issue a Certificate of Compliance for 39 Country Drive, DEP 337-1410 was made by Rees Tulloss; seconded by Cynthia Chapra. Roll call vote 6-0.

Land Management Updates

Jordan McCarron provided an overview of the Stewardship Saturday volunteer project on Saturday, March 26th, which attracted ten volunteers to prune apple trees at the Commission's Concord Rd orchard.

Mr. McCarron also provided an update on the Weston Invasive Plant Advisory Group (WIPAG)- recent work by the group includes a new Invasive Plant website hosted on the Conservation Commission webpage

and an upcoming Invasive Plant Management Policy that Conservation Staff would like the Commission to adopt for use on Town Conservation Land.

Discussion: Wetlands Bylaw

Mr. McCarron updated the Commission on the status of the Bylaw draft, which should be ready for Commission review at its 4/12/22 meeting before sending to Town Council for preliminary review. Additionally, Mr. McCarron intends to present on the Wetlands Bylaw to the Select Board at its 5/24/22 meeting.

A motion to adjourn the meeting at 9:08 pm was made by Rees Tulloss; seconded by Ellen Freeman Roth. Roll call vote 6-0.