

Weston Conservation Commission - Public Meeting Minutes  
April 30, 2019  
*Approved: May 14, 2019*

Members Present: Laurie Bent (Chair), Alison Barlow, Joseph Berman, Cynthia Chapra, Ellen Freeman Roth (left at 9:36 p.m.) and Rees Tulloss  
Members Absent: Josh Feinblum  
Conservation Staff: Michele Grzenda  
Others Present: See Sign-in Sheet

7:30 p.m. Opportunity for Public Comment

Nina Danforth expressed concern that National Grid is stockpiling material behind the Case Estates School House. The Agent reiterated the information contained in an email she had previously sent to Ms. Danforth responding to the concern, i.e., that the land where National Grid is stockpiling material is municipally owned land and therefore it is a matter under the jurisdiction of DPW/Selectmen. In addition, Ms. Danforth noted an area on the Case Estates field that had recently been re-graded. The Agent reiterated the information contained in an email she had previously sent to Ms. Danforth responding to the concern, informing Ms. Danforth that National Grid had performed some land management work last June in return for the town allowing National Grid to stockpile material behind the Case Estates property last year. Ms. Danforth was concerned that the area was devoid of any vegetation and she requested to know what conservation seed mix will be applied to that area when it is restored.

7:40 p.m. Request for Determination of Applicability: 28 Pine Street; N. Sawyer

The owner wishes to remove an existing shed and replace it in the same location. Preparation work will include minor grading and some fill will be brought onto the property. Repairs to driveway pavement around shed area will also be necessary. The owner had the wetlands flagged by Applied Ecological Science in March 2019. All work is 50 feet from the wetland edge. The Commission suggested that the landowner should be aware that fill often contains invasive seeds and she should be on the lookout for any suspicious vegetation that begins to grow. Motion by Joseph Berman to issue a Negative Determination of Applicability approving the request; seconded by Ellen Freeman Roth; vote 6:0:0.

7:50 p.m. Request for Determination of Applicability: 116 Meadowbrook Rd; D. Belichick (absent); M. Pinney (Wetland Scientist)

Mr. Pinney, on behalf of the land owner, requested that the Commission allow the removal of 7 trees within the 100-foot buffer zone: 5 trees that exist along the fence line in the backyard outside the 25-foot No Disturb Zone (NDZ) and 2 trees on either side of the driveway, within the NDZ. The trees are to be removed by a professional arborist with a crane to minimize impact on the existing lawn. Motion by Rees Tulloss to issue a Negative Determination of Applicability approving the tree cutting; seconded by Cynthia Chapra; vote 6:0:0.

8:00 p.m. Notice of Intent: 0 Conant Road (5 Colchester Rd.) Colchester Ridge, LLC; J. Tamposi (owner absent), Jason Lavoie; Jillson Company

The Applicant proposes to construct a single family house with associated infrastructure such as driveway, utilities, drainage and septic system. Some of the work will occur within 100 feet of a bordering vegetated wetland. The entire property is located on a hillside that generally descends in a westerly direction from the sideline of Conant Road towards a Bordering Vegetated Wetland (BVW) along the western lot line. No work is proposed within a protectable wetland resource.

There will be grading associated with the project, mostly to elevate and/or level the existing topography in order to provide suitable areas for infrastructure installation. A stormwater collection and management system has been proposed to mitigate any potential increase in site runoff. Stormwater generated from the

proposed house will be collected and piped to a subsurface recharge basin. Driveway and patio runoff will be mitigated by the use of porous pavement and permeable pavers. Surface runoff will be further mitigated by limiting the size of the formal lawn areas, utilizing dense vegetated groundcovers, and two proposed interceptor trenches. All proposed activity is at least 25 feet from the wetland edge.

Mr. Lavoie indicated that a retaining wall ranging from 8 inches to 5 feet high will be installed approximately 29 feet from the wetland edge. Questions regarding the installation of the proposed retaining wall ensued. The Commission expressed concern about placing a structure so close to the NDZ. Mr. Lavoie indicated that he anticipates the wall and limit of work will be moved further away from the NDZ after the next Planning Board meeting. The Commission asked that the Erosion Control Barrier (ECB) be moved slightly away from the NDZ where it zig-zags near Colchester Road. Mr. Lavoie agreed to that. The Commission asked questions about the maintenance requirements of porous pavement. The Operating and Maintenance plan that was provided by the Applicant indicated that it will be necessary for the driveway to be swept and/or vacuumed 4 times a year. A maintenance log book is required to be kept by the owner. Motion by Joseph Berman to close the hearing and issue an Order of Conditions approving the project; seconded by Cynthia Chapra ; vote 6:0:0.

8:35 p.m. Notice of Intent: 146 Conant Road; M. Elias, Owner, J. Lavoie; Jillson Co.

The Applicant proposes to construct a single family house. The proposed home and infrastructure will be constructed in the same general area as the existing home. The proposed house will feature a basement garage with a "Green Roof", a pool, several patios and terraces, retaining wall(s), and a proposed rain garden. The new porous pavement driveway/drive court will utilize the northern most existing driveway opening. No salt and sand will be used on the driveway. The other existing driveway curb cut will be removed. Lastly, the new home will make use of the existing septic system but will require a new septic tank and pump chamber.

The Applicant has filed a request to conduct work in Weston's 25-foot No Disturb Zone (NDZ). The proposed work in the NDZ includes the removal and replacement of portions of the driveway, the construction of a rain garden to control stormwater runoff, installation of landscape and screening plantings, and maintenance of an existing tennis court. Approximately 1,500 s.f. of the NDZ was previously disturbed. The project proposes to alter 1,285 s.f. on NDZ. Mr. Lavoie indicated that no natural NDZ will be impacted as part of this project. The Agent raised a concern about an area near the proposed level spreader, near the protected 16" conifer and within the NDZ where she requested that the limit of work line be pushed further from the wetland edge. Mr. Lavoie agreed to make that change. The owner does not intend to remove the existing tennis court surface but instead, to simply add a new surface on top. The Commission required that should the existing tennis court surface be removed, that the owner will notify the Commission and request a plan change.

In addition, the DPW has requested that the Applicant remove a couple of boulders, branches and dumped logs which are creating a constriction in the stream on the property. The applicant has agreed to the following: (1) A meeting on-site will be set up between the homeowner, the Town of Weston Conservation Commission agent, and the Town of Weston Department of Public Works to inspect the stream during the dry season to determine the full extent of work required to restore and maintain the portion of the stream located on 146 Conant Road; (2) On a one time basis, during the dry season, the landowner will clear the stream of existing man-made restrictions in place, including removing the fallen bridge stacked stones, leaf litter, branches, etc. If deemed necessary during the above mentioned meeting, the stream may need to be "dredged" to an extent that will not impact the bank or original base of the existing stream; (3) Annually, during the dry season, the applicant will clear the stream of debris, including leaf litter, twigs, and any other litter which may end up within that area; and (4) after large storm events, the applicant will walk the stream to determine if maintenance is needed and will perform maintenance such as leaf and branch removal.

Motion by Cynthia Chapra to close the hearing and issue an Order of Conditions approving the project; seconded by Ellen Freeman Roth; vote 6:0:0. Special Conditions to include: All plantings within the NDZ shall occur in previously disturbed areas and shall be installed by hand.

9:04 p.m. Notice of Intent: 47 Ash Street; J. Capello; Jason Lavoie, Jillson Company

The Applicant proposes to construct a single-family house and associated infrastructure, some of which lie within the 100-foot buffer zone to a BVW. The existing house and garage are located in the front third of the property. Located in a low lying area in the center of the property is a BVW which was reviewed through an ANRAD process two months prior. Located beyond the rear property line is another BVW.

Unlike the current home, the proposed home and infrastructure will be constructed in the rear half of the lot, approximately 530' from Ash Street. The proposed house will feature a side load garage, drive courts, patios, terraces, and retaining walls. It will also feature a new septic system and new stormwater management system. The stormwater management system has been proposed to help mitigate any potential increase in site runoff. Stormwater generated from the proposed house, a significant portion of the permeable driveway, and rear yard development will be collected and piped to either subsurface recharge basins or mitigated with interceptor/infiltration trenches. Uncontrolled runoff will by and large mimic existing conditions.

The driveway is proposed to be constructed within 3 feet of the NDZ. The Commission expressed concerns that the excavation and installation of the box culverts may impact the nearby NDZ. Mr. Lavoie offered to install a chain link fence along the approved limit of work to ensure that no encroachment into the NDZ will occur. The Agent indicated that proper oversight and monitoring will be necessary to ensure that no impacts occur beyond the approved limit of work. The Commission will impose a condition to require funding from the Applicant to pay for the Commission's outside consultant to be present for the pre-construction meeting and the first day of construction of the driveway/box culvert near the NDZ, and to approve any dewatering activity necessary.

The only work proposed in a protectable wetland resource area is the construction of a pedestrian boardwalk along the easterly property boundary, in a location where an existing trail routinely floods. This boardwalk was reviewed and approved by Weston Forest and Trail Association (WFTA) along the existing WFTA trail easement. The boardwalk will be installed by hand; no machinery will enter the wetland.

An abutter expressed concern over the close proximity of the driveway to her property. The Agent indicated that due to the extent of the wetland, the driveway has to be situated adjacent to her property in order to avoid wetland impacts. Leslie Glynn suggested that the Commission require that siltation fence along with the 12-inch compost tube be installed in the back area where a steep slope occurs. The Commission asked the Agent to inquire with the Fire Department and request that the Fire Department consider reducing the width of the driveway from 14 feet to 12 feet in the location of the box culverts.

Motion by Rees Tulloss to close the hearing and issue an Order of Conditions approving the project; seconded by Cynthia Chapra ; vote 6:0:0. Special conditions to include: (1) the Applicant shall provide funds for the Conservation Commission to hire an outside consultant to monitor the driveway construction where it is adjacent to the NDZ; (2) If dewatering is necessary, the contractor shall submit the proposed dewatering plan for review and approval; (3) the Applicant shall submit a Construction sequencing plan prior to construction; and (4) the Owners shall submit a signed statement indicating that they are aware of the requirements of the Operation and Maintenance (O&M) Plan and will comply with the maintenance requirements.

9:37 p.m. Abbreviated Notice of Resource Area Delineation (ANRAD): 518 and 0 South Ave.; 518 South Ave. LLC . Robert Gemma; MetroWest Engineering; J. Buchman (Banner Construction)

The Applicant has filed this ANRAD for confirmation of the Bordering Vegetated Wetland flags and Top of Bank flags shown on the Plan entitled “Existing Conditions Site Plan #518 South Avenue in Weston, Mass” prepared by MetroWest Engineering, Inc. dated April 10, 2019, revised 4/23/19. In addition, the applicant requested confirmation that the stream which runs through the BVW is intermittent.

The wetland flags were reviewed by the Weston Conservation Commission’s outside consultant, Patrick Garner. Mr. Garner had been hired as permitted under GL Ch. 44, x 53G. Mr. Garner performed a site visit on April 23, 2019 and made the following adjustments to the delineation of the BVW: (1) between Flags WP 10 and 11, a new flag was added 7 feet up-gradient; (2) Flag # 12 was eliminated, connecting WP11 – 13; and (3) Between Flags WP 17 and 18, a new flag was placed 3 feet up-gradient.

Next, Mr. Gemma reviewed the regulatory definitions of intermittent vs. perennial stream as defined in 310 CMR 10.58 (2)(a)(1)(a): “A stream shown as intermittent or not shown on the current USGS map or more recent map provided by the Department, that has a watershed size less than one square mile, is intermittent unless: (i) The stream has a watershed size of at least one-half (0.50) square mile and has a predicted flow rate greater than or equal to 0.01 cubic feet per second at the 99% flow duration using the USGS Stream Stats method.” Mr. Gemma indicated that the stream present on the property is not shown on the most recent USGS map. In addition, he ran Stream Stats and determined that based on Stream Stats and the Wetland Protection Act (WPA) regulations, the stream in question is by definition intermittent at the point on the property that is furthest downstream. The watershed size was calculated to be .41 square miles and the flow rate has a value of .00699 cubic feet per second at the 99% flow duration.

Several residents believed the watershed size had been underestimated. Mr. Gemma reiterated that in addition to running Stream Stats, he had hand-calculated the watershed size using the topography of the area. Both the Stream Stats approach and the topographical analysis of data showed that the watershed size at the most downstream location on the property was approximately .41 square miles, smaller than the watershed size required to qualify this stream as perennial. Barbara Fullerton, resident, questioned why the applicant didn’t collect stream bed and flow rate data in the field as opposed to running Stream Stats. Mr. Gemma opined that Stream Stats provides more accuracy regarding overall flow rate and watershed assessment. In addition, the DEP regulations under the Wetland Protection Act specifically rely on data provided by Stream Stats. Leslie Glynn asked whether Weston’s topography might have changed since 1987, the date of the most recent USGS map. She also requested that the applicant flag the entire top of Bank throughout the wetland. The Commission and Applicant agreed that the stream continues in a southerly direction within the BVW on the property. The Agent suggested that the Commission could opine in the ORAD that no determination of the stream bank was made south of Flag # TOB11. Ed Wall, Attorney, representing Lise Revers, asked questions regarding the status of the stream and its watershed size. In addition, Mr. Wall asked a number of questions regarding the underlying data that Stream Stats uses for analysis. Mr. Wall expressed concern that the applicant had not shown all the bank edge found on the property. Rebecca Mercuri, resident, asked questions about how often the Stream Stats and USGS topographic data are updated. Paul O’Neill expressed concern over wildlife impacts should development occur on this property. Mr. Wall requested that the Commission continue the hearing to allow their wetland scientist to perform a site inspection and provide another expert opinion.

J. Berman opined that he needed more information to determine the stream status. Motion by Joseph Berman to continue the hearing to give the abutters time to collect and present additional information; the motion was not seconded. Other members of the Commission opined that enough data had been presented in order to make an informed decision under the WPA. Motion by Rees Tulloss to close the hearing and

issue an Order of Resource Area Delineation affirming the stream status as intermittent; seconded by Cynthia Chapra; Vote 4:1:0.

11:05 p.m. Enforcement Order – 279 North Avenue

The Land Use Department received a call on 4/24/19 reporting that vegetation cutting, tree removal, chipping, and other work was being conducted at 276 North Ave. in the wetland and on both sides of Stoney Brook. E. Schadler, Conservation Stewardship Program Coordinator, performed a site visit on 4/25/19 and observed that a significant amount of brush and trees had been removed on both sides of the brook, a long piece of lumber had been laid over the brook for pedestrian access, and a large amount of bricks and concrete had been dumped into the wetland on the east side of the brook. Ms. Schadler knocked on the door, but no one answered. There was someone running a chainsaw to cut brush on the far side of the brook, but she couldn't get their attention. Ms. Schadler left the owner a notice to cease all activity until they spoke with the Conservation office. Ms. Schadler reported this incident to John Field, Zoning Code Enforcement Officer and he went by at around noon and encountered one of the workers. They reported that the owner was currently in Brazil. Mr. Field told them that they needed to stop all work until they spoke with the Conservation office. The Conservation Office has not received any calls since the work was stopped. Motion by Joseph Berman to issue an Enforcement Order; seconded by Cynthia Chapra; vote 5:0:0.

11:10 p.m. 37 Wellesley Street – request to modify approved RDA Plan

The owner submitted a memo to the Commission requesting permission to relocate a shed and install a fence; however the owner did not attend the meeting as requested. The Commission requested that the owner attend the May 14<sup>th</sup> Conservation Commission meeting to discuss the request and to discuss the landscape debris the Commission had observed in the wetland on his property.

11:15 p.m. Admin. Matters

1. Approval of 4/9/19 Con Com minutes; motion by Joseph Berman to approve; seconded by Rees Tulloss; vote 5:0:0.
2. Signing of bills and documents
  - o Cert. of Compliance- Valley Pond (337-352)
  - o Order of Conditions – 5 Colchester
  - o Order of Conditions – 146 Conant Road
  - o Order of Conditions – 47 Ash Street
  - o Order of Resource Area Delineation - 518 and 0 South Ave.
  - o Negative Determination of Applicability - 116 Meadowbrook Rd
  - o Negative Determination of Applicability - 28 Pine Street
3. Melone House License Discussion – The Commission recommended the Town Manager enter into a license agreement for Land's Sake to continue renting the Melone House.
4. Trail Use Permit Request Approved: cross-country race in Jericho Town Forest: 9/11/19 and 10/2/19 (Cambridge School of Weston); students will park at Burchard park.
5. Trail Use Permit Request not approved: Cat rock Park Orienteering Event request 5/8/19. The Commission denied the request based on the resident concern over significant parking demand at Drabbington Way. If the organizers are able to propose an alternate parking plan that does not use the parking area or the abutter side streets, then the Agent may allow the event.
6. Trail Use Permit Request Approved: Nolte Forest High School Orienteering event- students will walk from High School.
7. The Conservation Commission voted to send a letter of support for the Public Lands Preservation Act Bill.

Meeting adjourned at 11:30 p.m.