

Weston Conservation Commission - Public Meeting Minutes

August 18, 2020

Approved: 8/25/20

Members Participating Joseph Berman (Chair), Alison Barlow, Cynthia Chapra, Josh Feinblum, Rees Tulloss, Rebecca Loveys, Ellen Freeman Roth
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 Weston Conservation Commission (WCC) 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. Opportunity for Public Comment

- A member of the public asked what the status of the 40b project- Joe Berman indicated that much of this WCC meeting would be dealing with this.
- Steve Garfinkle raised his hand but was unable to be heard by the WCC due to the older version of his Zoom account. The Agent tried to reach him via chat but he did not respond. (Mr. Garfinkle was able to communicate with the WCC later in the evening).

7:30 p.m. Cont. Notice of Intent: 0, 518, and 540 South Ave; Hanover R.S. Limited Partnership; J. Buchman, owner; Ken Fields, Four Point, Nate Cheal, Tetra-Tech; Jim Ward, Nutter

The Applicant filed this Notice of Intent for the construction of a 5-story, multi-family residential building, which will include a courtyard, parking garage, and a separate on-site sanitary wastewater treatment system. A portion of the work will occur within 100-feet of Wetland Resource Areas.

The Chair, Mr. Berman, reviewed the process by which this virtual public hearing would be conducted. Mr. Berman acknowledged that the WCC received over 60 public comments and that those have been shared with the Commission. Mr. Berman reviewed why the WCC is opening this hearing. It was the WCC's opinion that the NOI filing has all information necessary to begin review of the Wetland Protection Act (WPA) issues regarding this project. This meeting will likely be the first of several public hearings on the project during which members of the public may participate, ask questions, and express their views.

The NOI package has been uploaded on the "518 South Ave" page found on the Town's website.

The Commission has hired Patrick Garner as their Outside Consultant and will provide his opinion to the Commission. The Commission's jurisdiction is limited by the Wetlands Protection Act. It will be guided by the science.

Ken Field, Four Points, presented the project. The existing conditions include an existing single-family house with a driveway. A BVW exists along the eastern portion of the property. An intermittent stream exists within the BVW.

An erosion control barrier consisting of construction fence and compost sock roll will be installed along the limit of work. The limit of work will be a couple of feet from the wetland edge close to Rt. 30 and will continue further away from the wetland (approx.. 25-feet away) as you head south onto the property. Mr. Fields reviewed the location of the proposed wastewater treatment system, infiltration basins for stormwater, utilities, and overall locations of roadways and buildings.

Mr. Field indicated that no wetland resource areas impacts are proposed, however the following amount of work will occur in the 100-foot buffer zone: (1) The Soil absorption area: 8,762 s.f.; (2) Stormwater level spreader = 411 s.f.; (3) landscaping = 16,577 s.f.; (4) and total impervious cover = 18, 690 s.f.. A tree removal chart was provided. 18 large trees are proposed to be removed; 31 trees are proposed to be planted.

Stormwater will be directed to catch basins equipped with water quality units and connected to subsurface basins. The infiltration units are sized to meet stormwater standards. During the 25- and 100-year storm events, the infiltration systems will reach capacity and the excess stormwater will make its way to a level spreader which will discharge flows approximately 23-feet from the wetland edge. The submitted Stormwater Management report included an Operation and Maintenance plan.

The Wastewater treatment plant requires a DEP groundwater discharge permit. The leaching field is at least 50-feet from the wetland edge, which is required per DEP standards. A long-term groundwater monitoring plan is required as part of the DEP permit.

Josh Feinblum asked why the roadway near the wetland is necessary. The current access road is 12-feet wide and the applicant indicated that the fire dept. requires a wider width. Mr. Buchman indicated that typically fire dept. requires 18-20-foot-wide access but due to the close proximity to the wetland, the Fire Dept. will allow a reduction to 16-feet wide. The applicant would like to use the eastern access as both an exit only and emergency access. It was Josh Feinblum's opinion that the increase in traffic utilizing this eastern access may impact the wetland. Mr. Feinblum asked if the applicant considered restricting the eastern access to emergency use only. Mr. Buchman feels that facilities of this size works better with two accesses. Ms. Chapra wondered why the emergency access couldn't be utilized on the western access route. Mr. Cheal of Tetra-tech indicated that both access ways need to be a minimum of 16' and that the main access way will be 24-feet wide. The eastern access is proposed to be porous pavement. Mr. Berman wondered if the fire department would accept 12-feet of gravel and 2-foot grassy or pervious shoulders? It was Mr. Cheal's opinion that grassy shoulders would be adversely impacted and erode during plowing events. Ellen Freeman Roth asked about snow plowing and if salting would be used. Mr. Cheal indicated that very little de-icing products are used in a porous pavement access. Discussion ensued. Mr. Buchman indicated that he will look into restricting the eastern access to emergency vehicles only. The applicant was asked to provide information on what type of snow removal and de-icing products would be used within the 100-foot buffer zone. Rees Tulloss asked about the type of maintenance required for porous pavement. Mr. Garner indicated that regular vacuum sweeping will be necessary to maintain the porous pavement. Mr. Tulloss requested a snow removal plan be submitted. Josh Feinblum asked the Applicant to consider all alternatives to widening the eastern access road. The Applicant may be able to utilize the eastern access only for emergency access so long as sufficient site lines are available at their western access. Pat Garner noted that in many projects he reviews often have 12-foot wide emergency access. Mr. Garner also opined that porous pavement often fails after 10+ years as it loses its perviousness.

Commission members asked questions about the wastewater treatment plant. Ms. Chapra asked whether the leaching field could be moved further away from the wetland.

Mr. Berman opened the hearing to public comment and questions. Some spellings of names may not be accurate:

- Lise Revers – 4 deer path lane; did not agree with Con Com's decision to open this meeting. Was concerned that a zoom webinar does not allow participants to see each other; is concerned that the public cannot chat during a meeting. Mr. Berman responded that the meeting procedures are

consistent with the Governor's orders, including the Open Meeting Law. The Commission has held virtual meetings since April.

- Terry Eastman (59 Conant Road; 50 Pigeon Hill Road). Ms. Eastman re-iterated the difficulty of maintaining pervious pavement. Ms. Eastman also had concerns about the size of the large trees proposed to be removed in the buffer zone.
- Peter Davidoff (7 Lawrence Road) – 100 year storm is more like 15 years. How far does a treatment system need to be away from a stormwater system? What happens when the treatment plant fails. Does the treatment system have a primary, secondary and tertiary system; Nate Cheal indicated that the project has been designed using the more robust stormwater (Noah Atlas 14) – rainfall qualities that are 25% greater.
- Jack Cowie asked if the applicant considered a full water reclamation system? The applicant has not.
- Scott Horsley – hired by Attorney Dan Hill Law on behalf of some abutters– submitted a 10-page letter. Mr. Horsely does not believe the project does not meet the MA stormwater standards. He has concerns that the modeling does not consider the oversized infiltration systems. He also expressed concerns about the groundwater modeling. The modeling shows over .5' increase of water in the wetland and believes this is an alteration. Finally, Mr. Horsley had concerns about the wastewater treatments. Mr. Berman responded that the Commission had only received Mr. Horsley's letters the day before the hearing. The points made in his letter will be considered in the future by the Commission and its independent consultant, Patrick Garner. There will be opportunity at future meetings for a more in-depth discussion of these issues.
- Tom Goggins, Westerly Road. Asked if there were going to be transcript, recording, or list of participants. Mr. Berman responded that the recording would be available, but not transcript.
- Maija Cirulis-Gooch – 100 Ridgeway Road – what would the ramifications be if the wastewater treatment plant failed? – who would be responsible? What would be the impact to the stream? Mr. Cheal indicated that Mass DEP requires the owner put up a bond so that if the owner is not able to perform, DEP can financially step in. Wastewater treatment plants do not fail without some advance notice or warning.
- John Gifford – 68 Nobscot Road – had concerns about 38,000 gallons of effluent/day – is concerned about the Scott Horsely report about the 40x nitrogen and 5x phosphorous towards the wetland system.
- Jim Polando - 242 Merriam street – identified that a 12-foot gravel road was previously permitted and wondered if there were perpetual conditions placed on that permit. He also wondered if trees are proposed on the wastewater treatment areas. Is concerned once further engineering is done, they may be coming back and requesting more relief. Michele will pull driveway file.
- Linda Gelucci – 621 South Ave. proximity to the wastewater treatment plan in relation to abutters and the road – can someone comment about the noise and lighting and whether there is any concern about odor from the treatment plant. The chair indicated that the an

- Lou Mecurri – South Ave – questions surrounding what plans would the commission have regarding independent peer review over the technical expertise. The Chair indicated that the Commission has retained Patrick Garner. Mr. Garner will be providing a report.
- Nagy Mikael (590 South Ave.) – what is the carcinogen effect on human health and wildlife with 9:1 concentration of phosphorous and nitrogen loading discussed in Mr. Horsley’s letter.

The Chair asked how much time Pat Garner needs to review the initial filing. Mr. Garner expects to have his first memo ready in two weeks. The applicant’s team asked if they can communicate directly with Mr. Garner. The chair agreed with the condition that the Agent be cc’d on all communications.

The applicant agreed to a continuance. Motion by Josh Feinblum to continue the hearing to 9/22 at 8pm; seconded by Cynthia Chapra; roll call vote: each member responded Aye.

Steve Garfinkle, resident, expressed concern that the WCC is holding this hearing during the period between Rosh Hashanah and Yom Kippur. Mr. Berman responded that Sept. 22 is not on either holiday. Terry Eastman, resident, asked why this project is being heard if it is under litigation. Mr. Berman responded that the litigation involves a separate issue and the two proceedings may take place on parallel tracks.

9:54 p.m. Admin. Matters

1. Approval 8/4/20 Con Com minutes - Motion by Ellen Freeman Roth to approve; seconded Cynthia Chapra; Roll Call Vote taken: unanimous.
2. Request for minor plan change –Merriam Street Sidewalk construction (337-1294) – the approved plan called for a wood boardwalk and vehicle guardrail to be located along Cherrybrook for about 75' in order to reduce wetland impacts. The wetlands extend farther than the boardwalk and a modular retaining wall was approved to be built along the side to support the new sidewalk. The contractor is proposing to extend the wood boardwalk another 125 LF in lieu of the retaining wall this will reduce resource area impacts. Motion by Ellen Freeman Roth to approve the longer boardwalk; second by Rees Tulloss; Roll Call Vote taken: unanimous
3. Request for minor plan change – 7 French Road – The applicant is requesting administrative Approval for moving my house foundation/plan 4.5 feet to the left to accommodate the required 20-foot setback for the septic from the foundation. As discussed - the proposed patio will shrink to accommodate shifting of the foundation that will not impact the 25' wetland buffer zone. The proposed AC units & Generator will move accordingly.
4. Request for minor plan change – 39 Pine Street (Bob Berry) - The WCC originally approved the construction of a new garage in April. After careful deliberation, the owners grew uncomfortable with the original plan for the new garage as it would have blocked the sight line from their main house to the street and they did not think it would be aesthetically pleasing. They asked their architect and survey company to come up with a new design that would begin where the house ends while being mindful of the property set back and the no disturb zone. The resulting plan causes the structure to be smaller than originally planned and satisfies both the erosion control and no disturb zone requirements. Motion by Ellen Freeman Roth to approve this minor plan change; seconded by Rees Tulloss; Roll Call Vote taken: unanimous. The agent will work with the owner to ensure the required mitigation bushes are placed in an appropriate location.
5. Covid-19 Leash Order - Effective 8/12/20; dogs shall be leashed or under voice command before 10:00am. After 10am, all dogs shall remain leashed until further notice.

Meeting adjourned 10:07pm