

Weston Conservation Commission - Public Meeting Minutes

August 25, 2020

Approved: 9/8/20

Members Participating Joseph Berman (Chair), Cynthia Chapra, Rees Tulloss, Ellen Freeman Roth  
Members Absent Rebecca Loveys, Josh Feinblum, Alison Barlow  
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. Opportunity for Public Comment - On behalf of the Weston Garden Club, Cynthia Chapra requested to plant native vegetation on the border of Forbes Conservation land and the Rail Trail right-of-way. It was the commission's opinion that the Weston Garden Club should submit the final details on species and location for the Agent to approve. Paul Penfield from the Rail Trail Advisory Committee is working with DCR on obtaining DCR approval.

7:35 p.m. Request for Determination of Applicability; MBTA Right-of-Way; Tim Dermody, Fair Dermody Consulting Engineers, C. Coutu, Keolis

The Applicant, Keolis, filed this Request for Determination of Applicability to confirm the wetland boundaries along the MBTA Right-Of-Way. Keolis is currently in the process of renewing the five-year VMP that will expire in Dec. 2020. In accordance with the Wetlands Protection Act, RDA's issued for work conforming 333 CMR 11.00 are in effect for the five-year life of the VMP and must be renewed with the VMP. The maps included in the filing are provided in USGS 1:25,000 as required by 333 CMR 11.02".

Mr. Dermody of Fair Dermody Consulting Engineers, indicated that the work described in the VMP is related to vegetation management, control and maintenance activities for the years 2021-2025 for the railroad right-of-way [FRA, 49 CFR 237]. The Vegetation Management Plan for the railroad incorporates the Integrated Pest Management (IPM) approach towards promoting a safer railroad for employees, passengers, and neighboring communities by means of implementing various approaches towards removal of nuisance vegetation along the ROW. This work includes both chemical and mechanical controls as represented within the VMP.

Keolis requested the WCC consider issuing either a Negative #2 for approving the work described in the RDA and/or a Neg 5. citing exemption 310 CMR 10.02(2)(a)(2) "activities conducted to maintain, repair or replace, but not substantially change or enlarge an existing and lawfully located structure or facility used in the service of the public.". The Agent and Chair opined that the exemption listed in 10.02(2)(a)(2) does not apply to commuter rails. This exemption specifies it is for "activities used to provide electric, gas, water, sewer, telephone, telegraph, and other communication services". Ms. Coutu believes that Keolis does fall under this exemption as they have a communication wire along the track and therefore, this exemption applies. The Commission understands that management and control along the railroad right-of-way (ROW) is critical for the safety of Commuter Rail operations. However, at the heart of this are these fundamental questions. Does MBTA/Keolis fall under the exemption they have cited in their memo? Discussion ensued. The Commission agreed to approve the wetland boundaries only. Motion by Cynthia Chapra to issue a Positive 2A: that the boundary delineations of the wetland resources areas describe don the referenced plans are confirmed as accurate; seconded by Ellen Freeman Roth roll

call vote: each member responded Aye. Ms. Coutu encouraged the WCC to attend the Zoom Public meeting for MBTAs Vegetation Management Plan to be held on sept. 11<sup>th</sup>.

7:45 p.m. Request for Determination of Applicability; 55 Scotch Pine Road; H. Wilk (owner); K. O’Leary, Jillson Co.

The Applicant filed this Request for Determination of Applicability for installation of 65 linear feet of aluminum fence and 245 linear feet of either a 4 or 6-foot high chain link fence in the 100-foot Buffer Zone to a BVW and Bank. No work is proposed in the 25’ NDZ area. Minor amounts of underbrush cutting and clearing, as well as hand work to remove forest debris in the path of the fence, is likely required. No tree removal or grading site work is proposed. Although the request called for all footings to be installed by hand; a small piece of equipment may be used. The Commission required that if equipment is to be used, an email shall be submitted to the Conservation Agent with a description and photo example of what type of equipment will be used. The Commission required that a 9” straw wattle be used when work is within 50-feet of the wetland. Motion by Cynthia Chapra to issue a negative 3 determination; seconded by Ellen Freeman Roth; Roll Call Vote taken: unanimous

8:28 p.m. Notice of Intent: 118 Pine Street; Haodi Dong

The applicant proposes the restoration of an existing 120’x60’ tennis court located in the rear yard of 118 Pine Street. The applicant proposes to maintain the same tennis court size, fences, and the same tennis court surface elevation and slope. The tennis court is located within the floodplain, the Riverfront Area, 100-foot buffer zone, and 25-foot NDZ. The work area will be accessed via an opened-up section of fence adjacent to the driveway. Plywood will be laid on the ground along the access path to prevent any damage created by equipment to the ground surface. No passage will occur through the surrounding wetland area. A 3-inch thick layer of bituminous concrete will be removed from the surface of the tennis court and discarded offsite. The old net posts and concrete bases will also be removed and disposed of offsite. The top 6-inches of gravel will be scarified to locate and remove any tree root systems located beneath the tennis court surface. The Contractor will then laser grade and compact the existing surface, install 2” binder course, new post sleeves and net tie downs, and install the 1” top course. The neighbor is in support of the tennis court re-surfacing. It was noted that a small portion of the tennis court is on the neighbor’s property; both parties were aware of this. It was the commission’s opinion that no ECB is necessary. Motion by Rees Tulloss to close the hearing and issue an OOC approving the project; seconded Ellen Freeman Roth; Roll Call Vote taken: unanimous.

8:40 p.m. Cont. Notice of Intent: 71 Concord Road; A. Mei

The Applicant has requested a continuance. Motion by Cynthia Chapra to continue the hearing to September 8, 2020 at 9:00 p.m.; seconded by Ellen Freeman Roth; Roll Call Vote taken: unanimous.

8:41 p.m. Request for minor plan change 7 French Road (DEP# 337-1370); E. Gaw

The applicant is requesting administrative approval to moving the house foundation 4.5 feet to the west to accommodate the required 20-foot setback for the septic from the foundation. The proposed patio size will be reduced to accommodate the shifting of the foundation so that there will not be any encroachment of structures into the 25-foot No Disturb Zone (NDZ). The proposed AC units & Generator will move accordingly. Motion by Cynthia Chapra to approve this as a minor plan change; seconded by Rees Tulloss; roll call vote: each member responded Aye.

8:40 p.m. Notice of Buffer Zone Violation – 118 Conant Road; M. Heald

The owners conducted vegetation clearing within the 100-foot buffer zone without requesting or obtaining permission from the Weston Conservation Commission. Mr. Heald explained that he removed some poison ivy and vegetation to give more room for his children to explore the outdoors and create a natural classroom. Due to poison ivy, ticks, and vines, the backyard has been inaccessible. Mr. Heald was

not aware that wetlands or buffer zones existed in the area and indicated that he will allow the area to grow back naturally. Mr. Heald will contact the Conservation Commission in the future if he intends to do any work. Ellen Freeman Roth suggested the owner consider planning some native vegetation in the area, like highbush blueberry. Should the owner wish to do this, he should review the list of plants he intends to plant by the Conservation Agent for review and approval. Rees Tulloss asked if the agent had assessed the cutting in the field; the agent indicated that the owner did not wish to give permission. The Commission asked the Agent to codify this discussion in a follow-up memo for the file.

9:00 p.m. Request for minor Plan - Merriam Street Boardwalk (DEP# 337-1370)

The contractor is proposing to use a helical pile system instead of the previously proposed wooden system. In addition, the length of the boardwalk will be increased to 272-linear feet (vs. the 75' length as approved). The major benefit is the elimination of the concrete block wall to retain the sidewalk. The approved 75' long timber boardwalk: would consist of 10" timber piles, spaced 10' on center, = approx. 16 total piles. (.55 sf each = 8.8 total SF). The proposed 272' boardwalk will consist of 180' within the floodplain; 3" helical piles, 12' on center = approx. 30 piles + 15 diagonal bracing = 45 total piles (.05 sf each = 2.25 total sf). Modification and reduction of ground disturbance by converting the change of the sidewalk to a boardwalk. Motion the Ellen Freeman Roth to approve this as a minor plan change; seconded by Rees Tulloss; roll call vote: each member responded Aye.

9:05 p.m. Administrative Matters

1. Electronically Signing of Documents:
  - MassDEP File # 337-0736 (116 Meadowbrook Rd) – Re-Sign Certificate of Compliance
  - Motion by Rees Tulloss to issue a Certificate of Compliance for 116 Meadowbrook Rd. (337-0753); seconded by Cynthia Chapra; Roll Call Vote taken: unanimous.
  - Motion by Ellen Freeman Roth to issue a Cert. of Compliance for 40 Sherburn Circle (337-1300); seconded by Rees Tulloss; roll call vote: each member responded Aye
2. Motion by Cynthia Chapra to approve the 8/18/20 Con Com minutes as revised; seconded by Ellen Freeman Roth. roll call vote: each member responded Aye.
3. Motion by Ellen Freeman Roth to sign the revocable license for a trail on private property at 44 Ripley Lane; seconded by Cynthia Chapra; roll call vote: each member responded Aye.
4. Land Management Updates –
  - Culvert replacement complete in Jericho Town Forest
  - Field Mowing Assessment will be discussed on October 27th
  - Legacy Trail construction ongoing and overlook sight being constructed
  - Ecological Management Plan Final Public meeting will be held on October 27<sup>th</sup>.
5. Request for opinion: 95 Rockport Rd – a potential buyer asked whether the Commission would be amendable to the removal of an overgrown pine hedge in the NDZ as it obscures the view of a pond from the house. It was the Commission's opinion that they could allow the removal of the pines if the owner proposed a robust mitigation planting of native trees and bushes. However, the Commission does not believe it would allow stump grinding within the NDZ as that would be too invasive.
6. Next Conservation Commission Meeting: Sept. 8, 2020
7. Meeting adjourned at 9:50 p.m.