

Weston Conservation Commission (WCC) - Public Meeting Minutes
February 14, 2023
Approved: February 28, 2023

Members Participating: Joe Berman (Chair), Rees Tullos, Josh Feinblum, Alison Barlow

Members Absent: Glenn Butcher, Ellen Freeman Roth

Conservation Staff: Jordan McCarron, Joshua Baker

Notes: Pursuant to *An Act Relative to Extending Certain State of Emergency Accommodations*, signed by Governor Baker on July 16th, 2022, which extends the expiration of the remote meeting provisions pertaining to the Open Meeting Law to March 31, 2023, this extension allows public bodies to continue holding meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to remote meetings. 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 and meetings were taken up in order:

Request for Determination of Applicability: 16 Nash Lane, DOA 2023-001; J. Murphy & P. Laussen
Tom Schutz, Goddard Consulting, provided an overview of the project on behalf of the applicant, which involves the installment of a 6-foot wide wood-chip walking path, associated sitting area, and native plantings. The proposed work falls within the 100-foot Buffer Zone to a Bordering Vegetated Wetland (BVW) with a portion of the proposed native plantings within the 25-foot No Disturb Zone.

In addition to the proposal, three dead-wood trees were requested for removal due to their proximity to a service wire. It was agreed that the three trees would be cut to just below the wire and the snags left standing for wildlife habitat. The native plantings associated with the wood-chip path would more than cover any mitigation requirements for the trees.

A motion to issue a Negative 3 Determination of Applicability for 16 Nash Lane, DOA 2023-001, was made by Josh Fienblum; seconded by Rees Tulloss. Roll call vote 4-0.

Notice of Intent: 2 Sudbury Road, DEP 337-1461; A. Grimm & J. Grimm
Brian Nelson, MetroWest Engineering, provided an overview of the project on behalf of the applicant, which involves the demolition and reconstruction of an existing single-family house and associated amenities as well as the installation of an outdoor spa, driveway, sports court, and associated structures and landscaping. A portion of the proposed work falls within the 100-foot Buffer Zone to a Bordering Vegetated Wetland (BVW).

Mr. Nelson gave an in-depth overview of the proposed tree removal and mitigation planting plan; 26 non-native and hazardous or diseased trees are proposed for removal within the Buffer Zone with 39 native trees proposed as mitigation within the Buffer Zone. Mr. Nelson also verified that the Erosion Control Barrier, proposed to align slightly inside the 25-foot No Disturb Zone (NDZ) in several areas, would be relocated to be completely out of the NDZ.

George Collins, President and CEO of the Champion Center, raised concerns about the project's impact on the Champion Center's wellhead, located on the abutting property within close proximity to the project locus. Mr. Nelson explained that the project would improve stormwater management, which would in turn

improve water quality within the Campion Center's Zone I Wellhead Protection Area, but also offered to connect with Mr. Collins following the hearing.

Sandra Graham, also affiliated with the Campion Center, questioned whether there would be any impacts to the Right of Way to the wellhead. Mr. Nelson indicated that there would be no impacts.

The Commission questioned whether the proposed work would interfere with an existing walking trail and Weston Forest and Trail Association (WFTA) easement associated with the property. Mr. Nelson agreed that additional research and verification on the easement location and potential impact from proposed plantings on the trail would need to be done.

The Town of Weston Planning Board has yet to open their hearing on the property, and as such, the applicant requested a continuance to February 28th, 2023 at 9:00pm.

A motion to continue the Notice of Intent hearing for 2 Sudbury Road, DEP 337-1461, to February 28th, 2023 at 9:00pm was made by Josh Fienblum; seconded by Rees Tulloss. Roll call vote 4-0.

Request for Determination of Applicability: 30 Colpitts Road, DOA 2023-002; C. Palmer

Jay Thrasher, Robial Waters, gave an overview of the proposed project on behalf of the applicant, which involves the repair of an existing failed septic system on the property. The repair and system upgrade will occur within both the 100-foot Buffer Zone to a Bordering Vegetated Wetland and the 200-foot Riverfront Area to an off-site perennial stream. While there were no pressing concerns, it was decided that a continuance would best to allow time for the Town's stormwater engineer to review the project for compliance with state and local stormwater standards.

A motion to continue the Determination of Applicability for 30 Colpitts Road, DOA 2023-002, to March 14th, 2023 at 7:30PM, by request of the applicant, was made by Rees Tulloss; seconded by Joe Berman. Roll call vote 4-0.

Cont. Notice of Intent: 269 Concord Road, Burchard Park, DEP 337-1460; Town of Weston Recreation Department

Megan Buczynski, Activas, provided an update on the project on behalf of the applicant since their last hearing on 1/31/2023. Ms. Buczynski reviewed a revised mitigation plan, showcasing the invasive plant removal and re-naturalization of the slope to College Pond proposed just south of the tennis courts. In addition, a riprap berm would be added to the southeast corner of the tennis courts to aid in preventing erosion.

Chris Fitzgerald, Recreation Department, verified that the legality of using the Park's entrance drive as overflow parking was confirmed by the Town Managers Officer.

The Commission inquired if there would be any lighting installed. Mr. Fitzgerald informed the Commission that while lighting would not be installed immediately, conduit for potential future lighting is proposed as part of the pickleball design. Any installation of future lighting, however, would require approval from the Conservation Commission per Burchard Park's Memorandum of Understanding.

The Commission reminded the applicant that any future changes to parking may require another hearing in front of the Conservation Commission. The Commission also suggested planting more trees, if possible.

A motion to close the Notice of Intent hearing for 269 Concord Road, DEP 337-1460, and issue an Order of Conditions subject to the project receiving a SWPA Major Project Stormwater Permit was made by Josh Feinblum; seconded by Alison Barlow. Roll call vote 4-0.

Waiver Request- 0 Hemlock Road; R. Barno

The owner of 0 Hemlock Road (Parcel 23-43-90), Richard Barno, has requested permission from the Conservation Commission, per Section 4.23 of the Planning Board Rules and Regulations, to construct a subdivision road on the subject parcel in close proximity to the property boundary. The Commission owns the abutting property, (Parcel 23-43-20), commonly referred to as the Sears Land.

Imai Aiu, Weston Town Planner, provided a short explanation of Section 4.23, which requires applicants proposing to construct subdivision roads that would require a waiver from zoning setback, or “buffer”, regulations, to receive written permission from abutting landowners who would be impacted by such a waiver. In this case, the proposed subdivision road at 0 Hemlock Road would violate the Commission’s right to a 15-foot setback typically required of subdivision roads. Additionally, the proposed new subdivision road would cast an additional 15-foot setback, or buffer, onto the Sears Land.

Jonathan White, Wilchins Cosentino & Novins, LLP, and Rob Gemma, MetroWest Engineering, both representing Mr. Barno, provided an overview of their client’s proposed development plans. Mr. Barno is proposing a single-family development through the Planning Board’s “flexible subdivision” process. In order to do this, he has to demonstrate that he can build a “conventional” or “density” subdivision, including approval of all relevant waivers through the conventional process. Mr. White asked the Commission to keep in mind that the subdivision road triggering this waiver requirement was not actually being proposed by his client and that the flexible subdivision plan actually being proposed would not necessitate such a waiver. Additionally, Mr. White indicated that Mr. Barno was willing to grant a public trail easement over his land to connect Hemlock Road with the Sear’s Land in partial compensation for the requested waiver.

Attorney Gwen King, representing the Majority of Hemlock Road Owners, requested that the Commission respect the intent of the Planning Board’s process and consider the waiver request seriously. Ms. King pointed out that forfeiting the Commission’s right to a 15-foot setback on Mr. Barno’s side of the property boundary could potentially impact the intent through which the Conservation Land was gifted to the town. Some members of the Commission shared their concern about breaking the trust of the land grantor as well as the optics of proactively giving up its right to that 15-foot setback.

The Commission inquired whether Hemlock Road would need to be extended in order to accommodate the flexible subdivision plan and if so, would that potentially give the Commission’s Sears Land frontage on Hemlock Road and subsequently ownership rights to access over Hemlock Road. Mr. Gemma indicated that the flexible subdivision plan would not require an extension of Hemlock Road.

Commissioner Josh Feinblum asked for clarification on how the Commission should treat other requests to waive setback regulations on Conservation Land and whether its decision in this case could potentially set precedent. Commission Chair Joe Berman explained that this case and any future cases would have to be treated individually and based on the context of the situation.

The Commission inquired whether there was any public right of access over Hemlock Road, expressing concern that Mr. Barno’s offer of a public trail easement over his land to connect Hemlock Road with the Sear’s Land as partial compensation for the requested waiver would not provide a substantial public benefit if the public was not allowed passage over Hemlock Road. Mr. White and Ms. King had conflicting views on this question; all parties agreed that more research was needed on this issue.

Due to the length of the discussion as well as some outstanding questions, it was decided that the topic would be continued to the Commission's March 14th, 2023 meeting.

The following Administration Matters were discussed throughout the meeting.

Approval of 1/31/2023 Conservation Commission meeting minutes:

A motion was made to approve the minutes of the 1/31/2023 Conservation Commission meeting by Josh Feinblum; seconded by Rees Tulloss. Roll call vote 4-0.

Land Management Updates:

Jordan McCarron, Conservation Administrator, provided the following update:

- Annual pruning at the Concord Road Orchard took place on the 11th; 12 volunteers aided in the stewardship Saturday. Overall successful day.
- Three Hunters volunteered
- The next Stewardship Saturday will commence March 18th

Other Matters:

Mr. McCarron provided the following update:

- Town Counsel has provided a "final" draft of the Wetland Bylaw suitable for inclusion in the Town Meeting 2023 Warrant.
- Mr. McCarron will post the draft bylaw on the Commission's webpage.
- Town Counsel is going to move onto the next step of drafting regulations.
- The Commission directed Mr. McCarron to include the provision within Section 8 of the bylaw (Regulations) granting the Select Board the power to overrule any proposed regulations.

A motion to adjourn the meeting at 10:01 pm was made by Alison Barlow; seconded by Rees Tulloss. Roll call vote 4-0.