

Weston Conservation Commission (WCC) - Public Meeting Minutes

March 23, 2021

Approved May 25, 2021

Members Participating Joseph Berman (Chair), Alison Barlow, Ellen Freeman Roth, Josh Feinblum; Rebecca Loveys, Rees Tulloss

Members Absent: Alison Barlow (arrived 8:00 p.m.), Cynthia Chapra

Conservation Staff: Michele Grzenda, Sandra Gonneville

Members: Joseph Berman (Chair), Alison Barlow, Cynthia Chapra, Josh Feinblum, Rebecca Loveys, Ellen Freeman Roth, and Rees Tulloss

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

Rebecca Lord Gardiner – 16 Warren Place – asked if the Commission can insert information about the parking rules in the kiosk at Gun Club Lane. The Agent suggested Ms. Gardiner contact WFTA and Debbie Howell.

7:30 p.m. Weston Wayland Rotary Club (WWRC) Adopt a Field Proposal at Sears Land Field

The WWRC is proposing to adopt one of the Sears Land fields. A Rotarian and Sears Land neighbor (Tim Gavin) proposes to improve the ecological integrity the field adjacent to the Sears Land driveway. The project was presented by Rotary Club member Charlie Hamlin and attended by club members John Marchiony, Tim Gavin, and Katya Portnaya. The proposal involves surveying the soil, plants, wildlife, access, water sources, etc. and to develop a long-term project. The Rotary sees this as a 5-year restoration plan and will incorporate students, children, and families. The Rotary club will create COVID safety and CORI measures. The Club has assessed water options for native plantings and recognize watering is essential. The club will test the soil and amend as necessary; the plan will involve invasive species removal and planting of native shrubs. Several club members have agreed to organize volunteers (scouts and community at large). The Club proposes to educate the community about the restoration and importance of pollinator plants. Mr. Hamlin believes that some work may begin this spring. Ms. Portnaya hopes to eradicate invasive species in a portion of the field and it may be possible to plant natives by the fall. Questions about how to be successful was discussed. The Rotary believes this will be a long-term project.

The Commission supports the project; Mr. Berman suggests that Rees Tulloss, Debbie Howell (Conservation Office) and Ms. Chapra get together. Ms. Howell can provide a list of questions and action items needed to move forward. A site visited should be conducted amongst this small group. Once the details are flushed out, Mr. Berman wishes that the Rotary Club come back for a final presentation. Mr. Berman will run this project by the Town Manger. Motion by Ellen Freeman Roth to endorse the Rotary Club's proposal subject to the finalization of operation and management plan; seconded by Josh Feinblum. roll call vote: each member responded Aye. (Mr. Gavin or Mr. Hamlin reach out to Debbie Howell – Ms. Howell will set up a zoom or site walk with Rees Tulloss, Cynthia Chapra, and a couple members of the Rotary Club.

7:40 p.m. Request for Determination of Applicability (RDA); 7 Westerly Road; D. Keene

Doug Keene, the applicant and property owner, presented this project. The Applicant filed this RDA for the installation of a fence and vegetation removal at 7 Westerly Road. A portion of the work will occur in a buffer zone of wetland resource. In September 2020, the owners of 21 Westerly Road submitted an RDA that included a wetland delineation that reduced the size of this wetland from that shown on the Town's MapsOnline. This delineation occurred mainly on 21 Westerly Road with the two most southern wetland flags crossing over into the 7 Westerly Road parcel. That plan showed a 25-ft NDZ and 100-ft buffer zone associated with the wetland flags. Those 25-ft NDZ and 100-ft buffer zone lines are also shown extending into the 7 Westerly Road parcel but end abruptly due to lack of data. The wetland edge has not been delineated further on the 7 Westerly Road parcel. The applicant is hoping to use the wetland delineation from 21 Westerly Road to support their claim that the wetland has also receded on their own lot.

The applicant has provided Map Reference but the wetland data is not complete on and a survey has not been completed. The Agent has concerns because the applicant intends to clear and construct a fence right to the NDZ without having accurate data. The Agent would feel comfortable if the Applicant modified their permit to only amend a portion of their fence close to WF#2. The Commission suggested Mr. Keene hire a wetland scientist to flag the wetland and a surveyor to survey his property if he wishes to move the existing fence along the NDZ. Motion by Josh Feinblum to continue to 9:10 p.m. on 4/6; seconded by Rees Tulloss; roll call vote: each member responded Aye

7:55 p.m. Request for Determination of Applicability (RDA); AstraZeneca Pharmaceuticals, 35 Gatehouse Drive and 0 Winter Street; Chris Wagner, VHB

Chris Wagner of Vanasse Hangen Brustlin, Inc. (VHB) presented the project and Jocelyn Gambone (VHB) and Paul Joyce (AstraZeneca) were present at the meeting. The Applicant filed this RDA for the construction of a parking lot at 35 Gatehouse Drive and 0 Winter Street, Waltham and Weston. A portion of the work may occur within the 100-foot buffer zone of wetland resource areas. The Applicant is proposing to construct additional parking areas on its campus located at 35 Gatehouse Drive in Waltham, Massachusetts. Wetlands on the portion of the property relevant to the project were delineated by VHB on April 1, 2020 and January 15, 2021. Wetland 1 is an isolated vegetated palustrine scrub-shrub wetland located entirely in Weston on the hillside above the proposed Project. The wetland is fed by a small groundwater seep that breaks out on the side of the hill above the existing parking lot flows down the slope of the hill in a vegetated wet swale. The water in Wetland 1 infiltrates into the ground toward the bottom of the slope where the grades are less pronounced. A walking path passes by the bottom of Wetland 1 where the natural swale ends. During and after periods of heavy rain, Wetland 1 discharges ephemeral flow which is directed into a short manmade channel and culvert under the walking path; however, this channel and the surrounding area does not have hydric soils or a predominance of hydric vegetation and was not delineated as a resource area. Wetland 2 is an isolated wetland south of the existing parking lot for the facility and is approximately 200 feet by 200 feet in size. Based on its size, Wetland 2 is assumed to hold the required volume of water to qualify as Isolated Land Subject to Flooding (ILSF) under the Massachusetts Wetlands Protection Act. The majority of Wetland 2 is in Weston, with portions extending across the town line into Waltham. Much of Wetland 2 is a disturbed palustrine emergent (PEM) wetland system consisting primarily of common reed. The Applicant believes that these two isolated wetlands do not have an associated buffer zone according to the WPA regulations.

The project will be limited to a 1.5-acre portion of the 65.7-acre property and will include the addition of 101 parking stalls and associated drive aisles. Approximately 15,000 square feet of the proposed Project area is located in Weston. This RDA seeks a negative determination from the Weston Conservation Commission. The Applicant has indicated that the project was designed to avoid all impacts to jurisdictional areas within Weston. The Project will remain outside the 25-foot No-Disturb Zone (NDZ)

established by the Weston Conservation Commission and that no portion of the work proposed in Weston is located within resource areas subject to the WPA. No temporary or permanent impacts to wetland resource areas are proposed. Pat Garner, Weston's wetland consultant visited the site to evaluate the wetlands and agreed with VHB's interpretation.

Motion by Josh Feinblum to issue a negative #1; seconded by Ellen Freeman Roth; roll call vote: each member responded Aye. (Send to Chris Wagner.) The permit should be forwarded to Chris Wagner.

8:45 p.m. Notice of Intent: 15 Warren Place; (DEP File # 337-1407); C. Nash

Clifford Nash (applicant) and Jack Maloney (Dillis and Roy Civil Design Group) presented the project. The Applicant filed this Notice of Intent for construction of a 2-car garage at 15 Warren Place. The work lies within Wetland Resource Areas and buffer zones.

The property is approximately 0.67+/- acres and is located on Warren Place. No work is proposed in the resource area. The site is an existing single-family house with woods and a wetland, to the rear of the property. A note on the plans indicates that the wetland delineation was performed by Dillis & Roy Civil Design Group on 3/27/2006 and 10/24/2006.

The proposed project involves the construction of a two-car garage with master suite above, connected to the existing house with a mudroom entrance way. Grading associated with the construction is also being proposed. The project is located partially inside of the 100-year flood elevation and does involve placement of fill within Bordering Lands Subject to Flooding. The project is located completely within the 100-foot buffer zone and 200-foot Riverfront Area. The project proposes the removal and stump grinding of a 36" triple pine located within the 25' No Disturb Zone. This tree is located outside the limit of work. A 40" Oak tree located near the footprint of the addition is proposed to be removed. This tree is approximately 50 feet from the edge of the wetland. At its closest point, the limit of work is 25 feet from the edge of the wetland. Straw wattles and silt fencing will be installed up gradient from areas of bordering vegetated wetlands that may receive runoff from areas disturbed by construction. Upon completion of construction, all disturbed areas shall be loamed and seeded (or landscaped).

There is an OOC associated with a new septic system installed in 2017 that received a Certificate of Compliance on 10/11/2018. Compensatory storage was previously required on the northerly side of the gravel driveway. It is unclear if this was completed and if the proposed project accounts for its displacement. Also, the driveway was supposed to have remained as gravel but it appears that it has been paved. The currently proposed project does not trigger a Stormwater Management Permit, but Rich Sweeney (SWPA) did request the applicant put in some stormwater mitigation because of the gravel driveway having been paved. During the meeting, it was discovered that the formerly existing gravel driveway had been paved in 2018 without a permit. The Commission requires that this activity be added to the NOI. There was also discussion about the existing 3-bedroom septic system accommodating the proposed additional fourth bedroom. The owner is willing to put a deed restriction on the house and this will be worked out between them and Weston the Board of Health and the Building Department. The Engineer will submit the following material (1) revised NOI flood zone numbers, description about driveway work; an alternatives analysis.

Motion by Josh Feinblum to continue this project to 7:45 p.m. on 4/27/2021; seconded by Cynthia Chapra; roll call vote: each member responded Aye.

9:09 p.m. Cont. NOI: 518 South Ave; Hanover Weston (DEP File# 337-1383); V. Mulvey (Nutter), J. Buchman

The Applicant of Hanover Weston has requested a continuance to June 29th. Mr. Berman also reiterated that no additional review will occur until such time when the Commission continues this meeting in June.

Josh Feinblum expressed concerns about the possibility that the Commission may lose a quorum of the Commission to continue hearing this matter who has not missed more than one meeting. Motion by Josh Feinblum to continue the hearing to 8:00 p.m. on June 29, 2021; seconded by Rees Tulloss; roll call vote: each member responded Aye.

9:15 p.m. Admin. Matters (these matters may happen any time during the evening)

- Joe Berman updated the Commission on the Conservation Administrator's replacement.
- Approval 3/9/21 Con Com minutes; motion by Cynthia Chapra; seconded by Josh Feinblum; roll call vote: each member responded Aye.
- Request to remove trees – 21 Center Street
 - The applicant, Center Street Trust, requests to remove 8 trees within the Wetland Resource Area. This requires Conservation Commission administrative approval. The applicant describes the trees as either dead or dying and leaning towards the adjacent parking area creating a dangerous condition. Staff visited the site and confirmed condition of trees proposed to be removed.
 - The Conservation Department recommends approval with the following conditions. No ground disturbance. All stumps will be left with at least 8-10 feet of the trunk in place to provide wildlife habitat, as agreed to by the applicant. All cut material is left in the area for which it originated. All equipment must stay on the paved parking lot area. The applicant agreed to mitigation plantings of either 2 native trees or 4 shrubs. The applicant must submit a mitigation planting plan for Department approval prior to any work. It is the responsibility of the applicant to confirm that the trees are located on his property or to get permission from his neighbor before proceeding. This project was initiated by the neighbor so this should not be a concern. Motion by Cynthia Chapra to administratively allow the removal of the eight trees in this proposal; seconded by Rees Tulloss; roll call vote: each member responded Aye.
- 9:30 p.m. – Discussion item for the Conservation Commission regarding a question from Brandon Robinson about the proposed development of 120 Rockport Road. Mr. Robinson has an option to buy this land pending due diligence on the possibility of developing the parcel. Mr. Robinson was joined at this meeting by his engineer Raufb Mankaryour (Alpha Omega). Mr. Robinson was inquiring on the Commissions willingness to allow development of this land with encroachment of 12 feet into the NDZ in order to grade appropriately around the proposed house in exchange for 12,000 SF. of a conservation deed restriction in the other corner of the parcel. The wetlands have been flagged but still need to be confirmed. There was discussion of the possibility of Exception B to the NDZ policy if ZBA does not grant a variance. Exception B of this policy states that the Commission may at its discretion, allow work within the 25-foot NDZ if the Commission finds that the applicant has made every effort to avoid and minimize alteration within the NDZ and the applicant has demonstrated that no reasonable conditions or alternatives exist that would allow the proposed activity to proceed in compliance with the Wetlands Protection Act and this policy, and permitting the work will further an overriding public interest.
- Leash Order Discussion: COVID Temporary Leash Order - At a March 8, 2021 meeting the local emergency planning committee (LEPC) recommended that the temporary leash order which was put into effect for public safety reasons related to COVID 19 be lifted at this time. Previously, the Conservation Commission had asked to keep the order in place until other towns opened up so Weston trails would not become overrun. The Commission recommends that the COVID leash order stay in place until April 27th when it will be discussed and reviewed again. The Commission expressed concerns implementing the LEPC's recommendation to lift the leash order. Dogs off leash are not a COVID safety concern, per the LEPC. Additionally, the leash order has been very difficult to enforce. Moreover, the reason to keep the leash order from a

conservation lens is that neighbors may inundate and damage Weston Conservation Land; however, the popular dog walking properties for out of towners are already overrun - leash order or no. Lastly, this was a temporary order to address COVID safety concerns. It was not intended to deal with bad dog or dog owner behavior.

Next Conservation Commission Meeting: April 6, 2021

Meeting adjourned at 9:15 p.m.