

Weston Conservation Commission (WCC) - Public Meeting Minutes
September 28th, 2021
Approved: October 12th, 2021

Members Participating: Joe Berman (Chair), Rees Tullos, Ellen Freeman Roth, Josh Feinblum, Cynthia Chapra, Alison Barlow

Members Absent: Rebecca Loveys

Conservation Staff: Jordan McCarron

Notes: Pursuant to Chapter 20 of the Acts of 2021, which includes an extension of Governor Baker’s March 12, 2020 Order Suspending Certain provisions of the Open Meeting Law, G.L. c. 30A, §18, this meeting was held via an online meeting platform (Zoom). No in-person attendance of members of the public was available.

Joe Berman opened the meeting at 7:30 p.m. with an opportunity for public comment.

Hearing none, a motion to approve the minutes from 9-14-21 was made by Ellen Freeman Roth; seconded by Josh Feinblum. Roll call vote 5-0-1.

The Commission then commenced with the following scheduled hearings and meetings, in order:

Request for Determination of Applicability: 560 North Avenue (RDA 2021-015); H. Tiedemann

Henry Tiedemann, owner and applicant, provided an overview of the project, which involves the removal of nine (9) trees, re-grading the backyard area, and adding a garage addition. The re-grading activities would involve re-locating 20-30 yards of material from a “high” spot to a “low” spot in the immediate backyard area. The garage addition would require a similar amount of fill to be brought-in to extend the slope on the west side of the house. Finally, the tree removal would be for the purpose of maximizing solar gain for a proposed roof-mounted solar array. Mr. Tiedemann’s permit application indicates that all work would occur in the outer buffer zone, between 70-85 feet from bordering vegetated wetland.

Mr. Berman expressed the view that the Commission typically requires more professional design plans, including cut and fill charts, fully-developed landscape plans, and a wetland resource area delineation in order to adequately assess projects of this scope in the buffer zone, particularly projects that include moving earth and/or importing fill—Mr. Tiedemann’s submission included hand-drawn plans on graph paper with buffer-zone estimates taken by measuring from existing wetland flagging behind his house to the extent of his proposed work.

Mr. Tiedemann maintained his opinion that the project is minor and clearly in the outer buffer zone if you visit the site and see the lay of the land; he expressed hesitancy to follow-through with more detailed and expensive plans without some assurance from the Commission that his project would be permitted.

The Commission discussed whether the plans Mr. Tiedemann presented would be sufficient to assess the project’s impact on the wetland resources. Ultimately, the Commission agreed that due to the complexity of the project, which includes earth moving and fill, it would be reasonable to expect a more detailed plan from Mr. Tiedemann before deliberating on the project further.

A motion to continue the Determination of Applicability for 560 North Ave, RDA File # 2021-015 to the October 12th, 2021 meeting at 8:15 pm at the request of the applicant was made by Ellen Freeman Roth; seconded by Josh Feinblum. Roll call vote 6-0

Commissioner Rees Tulloss left the meeting at 8:13 p.m.

Request for Determination of Applicability: 390 Highland Street, (RDA 2021-016); L. Revers

George Connors, George Connors Law, provided an overview of the project, which includes the demolition of a barn and ancillary structures located within the outer limits of the proposed 100-foot buffer zone. At this time, the applicant is not proposing any redevelopment.

A motion to issue a Negative 3 Determination of Applicability for 390 Highland Street, RDA File #2021-016, was made by Josh Feinblum; seconded by Cynthia Chapra. Roll call vote 5-0.

Request for Determination of Applicability: 95 Rolling Lane (RDA 2021-017); C. Karacadag

Rob Gemma, MetroWest Engineering, provided an overview of the project, which includes the demolition and reconstruction of a new single-family house. The site contains a deep depression and isolated wetland located in the northeastern portion of the property in a wooded area. At the bottom of the depression lies a certified vernal pool (#6693). MetroWest Engineering, Inc. has determined that the isolated wetland has no inlet or outlet and therefore, no hydrologic connection to any jurisdictional wetland resource area. It is jurisdictional under the Wetlands Protection Act as Isolated Land Subject to Flooding (ILSF) which has no designated buffer zone. Mr. Gemma explained the no work would occur within 25 feet of the edge of the ILSF.

A motion to issue a Negative 1 Determination of Applicability for 95 Rolling Lane, RDA File #2021-017 was made by Ellen Freeman Roth; seconded by Josh Feinblum. Roll call vote 5-0.

Cont. NOI: 518 South Ave. (DEP File# 337-1383); Hanover Weston

A motion to continue the Notice of Intent hearing for 518 South Avenue, DEP File 337-1383, at the request of the applicant, to December 14th, 2021 at 7:30 p.m. was made by Cynthia Chapra; seconded by Josh Feinblum. Roll call vote 5-0.

Notice of Intent: 33 Laxfield Road; (DEP# 337-14XX); Jin Xia

Jin Xia, owner and applicant, provided an overview of the project, with includes the construction of a 28'x 26.2' addition to the north side of the house and a 12'x16' deck to the east side of the house. The house addition is proposed to have a full concrete foundation and the deck will be constructed over footings. All work proposed is located within the 100-foot buffer zone to a BVW, which is a tributary to an Outstanding Resource Water. Construction of the addition will result in approximately 97 SF of temporary disturbance within the Weston 25-foot No Disturb Buffer Zone (NDZ). Mr. Xia's plan calls for 8 native shrubs to be planted on existing lawn within the inner Buffer Zone as mitigation for the temporary disturbance within the NDZ.

Jordan McCarron, Conservation Administrator, noted that the project does not trigger review under the Weston Stormwater and Erosion Control Bylaw, but added that the applicant has agreed to provide a plan for drainage for the new addition in the form of a French-style drain. Additionally, Mr. McCarron pointed out that there may be some vegetation removal in the 25' NDZ as part of construction activities on the new addition and that the project should be conditioned to require restoration in that area if necessary.

A motion to close the Notice of Intent hearing for 33 Laxfield Road, and issue an OOC contingent on the DEP issuing a file number and providing no substantive comments, was made by Cynthia Chapra; seconded by Josh Feinblum. Roll call vote 5-0.

Notice of Intent: Pedestrian Bridge over the Charles River, (DEP# 337-1422); Massachusetts Dept. of Conservation and Recreation (DCR)

Paul Jahnige, Department of Conservation and Recreation (DCR) and the project proponent, introduced the project team.

Brian Myers, GPI, provided an overview of the project, which includes replacement of the pedestrian bridge across the Charles River located north of Recreation Road and east of the I-95/Mass Pike interchange in Newton and Weston. Improvement activities proposed within the Town of Weston include: removal of all components of the existing bridge structure, a new pedestrian/bicycle bridge over the Charles River (~99 feet of which is in Weston), a new 100-foot-long variable-width shared-use path with vegetated shoulders to the bridge, trail pavement markings and signage, stormwater drainage improvements, landscaping with native vegetation, and other items incidental to construction of the bridge and trails. The work extends approximately 260 feet southwest of the Weston/Newton municipal boundary to the centerline of the Charles River.

Laura Krause, BETA, provided an overview of the resource area impacts and proposed mitigation for the project:

Inland Bank (To Perennial Stream)

A total of 23 linear feet of temporary Bank alteration is proposed along the Charles River in Weston. The impacts will result from placement of riprap on the bank required for scour protection for the bridge abutment.

Land Under Water

A total of 185 sf of impacts to LUW are proposed (145 sf temporary and 40 sf permanent) while 69 sf will be restored. Activities resulting in permanent LUW impacts include installation of permanent 14-inch diameter concrete filled steel pipe piles in the streambed to support the new bridge structure. Temporary impacts will result from installation of the water control structures to protect water quality in areas beyond the Project limit during placement of riprap in the streambed for scour protection. Temporary LUW impact areas will be restored in place in accordance with the Massachusetts River and Stream Crossing Standards. Sixty-nine square feet (69 sf) of LUW will be restored through removal of the existing southern bridge pier.

Bordering Land Subject to Flooding

The 100-year floodplain associated with the Charles River extends beyond the Bank boundary to elevation 38' (NAVD 88) in the location of the project therefore, portions of the Project are proposed below the BLSF boundary. Total BLSF impacts associated with the Project in Weston are 726 sf resulting from grubbing, selective clearing, installation of erosion controls, and installation of a new bridge abutment. No permanent additional filling of BLSF is proposed as part of this project and therefore "no rise" in the Base Flood Elevation (BFE -100-year floodplain) is anticipated. However, the Project will result in an 844 CF net increase of floodplain storage capacity in Weston as part of the stormwater improvements. Of the total BLSF impact areas, approximately 11 sf are previously developed, meaning they are currently surfaced with compacted gravel. Upon completion of grubbing and clearing activities, the temporarily impacted BLSF area will be restored to existing conditions through placement of loam and spreading of a native seed mix. Selective clearing and tree topping is required for construction equipment to access the bridge during replacement. Tree removal will be conducted in a manner described in the Weston Tree Removal Guide to the extent practical. The project includes a Landscaping Plan of native woody species to mitigate clearing.

Riverfront Area

The Project site encompasses 24,856 of RA of which approximately 13,173 sf of impacts are proposed. These impacts include 2,099 sf permanent, 10,214 sf temporary and 860 sf redevelopment while 8 sf will be restored, see Table 2 below. Temporary impacts to RA, 10,214 sf, result from grubbing, relocating an existing outfall pipe, clearing, selective tree trimming and tree topping, and installation of temporary erosion controls. Redevelopment RA impacts, 860 sf, are associated with resurfacing the existing path. Permanent impacts, 2,099 sf, will occur as a result of widening the existing path needed to realign a sharp curve in the path just west of the bridge and provide a gradual transition from the existing 8-foot path to the 16-foot bridge. Other permanent impacts to RA are associated with placement of preventative scour riprap at the bridge abutment. Areas of “temporary” impacts include existing lawn and wooded areas that will be impacted by grubbing and clearing and installation of temporary erosion control measures but will be restored to existing conditions upon Project completion.

Sam Campbell, GPI, then reviewed construction methods for the project. Erosion and sedimentation controls will be installed and maintained by the contractor where activities are proposed within 100-feet of Bank and within the 200-foot RA. The erosion controls will provide a limit of work barrier while preventing silt and sediments from migrating into or towards the resource areas. Erosion controls will consist of compost-filled filter tubes. No hay bales will be used at any time on this project.

Construction of the Charles River Pedestrian Bridge will require implementing and maintaining a temporary water control system around the bridge abutments to ensure abutment construction can be completed in the dry. The water control measures are to be designed to include flow diversions, sedimentation and erosion controls, and shall not harm the ecology of the river, land under water, and surrounding land. Submittal of an approved Water Control Plan can be included as a permit condition.

Dewatering of the work area will be completed to avoid an increase in turbidity over the baseline conditions. The Contractor will be responsible for developing an acceptable dewatering plan that will meet the requirements specified in the Special Provision. This plan will be submitted to DCR for approval prior to implementation and can be submitted to the Commission for approval as well. Work will comply with any Time of Year restrictions.

Prior to in-water pier removal, the work zone will be protected with a turbidity screen, or similar protection, to minimize disturbance to the River. Best management practices will be used for installation of the screen and will be adhered to during all in-water work. The contractor will use an appropriate method specifically for river conditions.

Mr. Jahnige indicated that the project should be exempt from local Bylaw review, including the Weston Stormwater & Erosion Control Bylaw. Mr. McCarron asked for more information and a citation on which law provides for that exemption.

Mr. McCarron requested a list of what other types of permits and submittals would be required for this project and noted that he would like additional time to communicate with the Newton Conservation Agent, as well as work on a draft Order of Conditions for review by the Commission, before the hearing closes. The Commission agreed that a continued hearing would be appropriate given the scale of the project.

A motion to continue the Notice of Intent hearing for the DCR Charles River Pedestrian Bridge, DEP File # 337-1422, to the October 12th at 8:30 pm by Ellen Freeman Roth; seconded by Josh Feinblum. Roll call vote 5-0.

105 Newton Street; (DEP# 337-1423); Thomas Grape 2016 Family Trust

Kevin O' Leary, Jillson Company, provided an overview of the project, which includes the replacement of an onsite sewage disposal system. Due to soil conditions, required wetland setbacks, topography, groundwater elevations, and Title 5 "Break-out Slope" grading requirements, portions the proposed leaching facility will be higher than existing grade elevations. A subsurface, Impervious Barrier is proposed around a portion of the septic leaching area to reduce grading at the closest point to the BVW. The pump chamber and septic tank will be placed in the rear yard area beneath and behind the patio area and located within the 100-foot buffer zone. The leaching area requires approximately 5,000 SF of tree and brush cutting/clearing in the 100' Buffer Zone. A temporary construction access drive will be cut-in along the west side of the house and into the rear yard where the tank, pump chamber, & leaching area will be constructed. Overall, approximately 6,150 SF of tree and brush cutting/clearing will occur within the parcel. Additionally, there are several hundred cubic yards of imported fill material required to comply with site grading requirements. The majority of the site work is within the 100' Buffer Zone. No work is proposed within the 25' No Disturb Zone.

Mr. McCarron added that permanent wetland restoration area barriers required as part of a previous Order of Conditions, 337-1299, were never installed and that he had made an agreement with Mr. O' Leary to have them installed as part of this septic replacement.

A motion to close the Notice of Intent hearing for 105 Newton Street, DEP File # 337-1423, and issue an OOC was made by Josh Feinblum; seconded by Ellen Freeman Roth. Roll call vote 5-0.

Notice of Intent: 95 Rockport Road; (DEP# 337-1424); Baopeng Bai

George Connors, George Connors Law, provided an overview of the project, which includes the replacement of an onsite sewage disposal system. The house is currently serviced by an on-site system located to the north side of the structure. The system is being upgraded to provide for an additional bedroom. The existing system will be abandoned in place per Title 5 requirements and the new system will be located on the west side of the house / front yard area. The area of proposed work has a total estimated disturbed area of approximately 4,000 SF. No new impervious area or expansion of lawn area has been proposed. The existing grade will be maintained and there will be no change in the runoff patterns. The proposed work is located within the outer 50 feet of the 100-foot buffer zone, and the outer riparian area of the 200-foot Riverfront Area.

The project also includes a second story addition to the house on the north side and a sunroom addition to be built on a second-story patio on the south side of the house. This work was not included in this NOI application because there is no earth disturbance required. Mr. McCarron confirmed this.

A motion to close the Notice of Intent hearing for 95 Rockport Rd, DEP File # 337-1424, and issue an OOC was made by Cynthia Chapra; seconded by Josh Feinblum. Roll call vote 5-0.

Cont. Abbreviated Notice of Resource Area Delineation: 390 Highland Street/0 Forest Lane, (DEP# 337-1416); L. Revers

George Connors, George Connors Law, provided an overview of the Abbreviated Notice of Resource Area Delineation (ANRAD), which includes a request for confirmation of two Bordering Vegetated Wetland systems on the subject property.

Patrick Garner, a Professional Wetland Scientist (PWS) hired by the Conservation Commission to perform an independent review of the delineation, confirmed the accuracy of the delineation. The only change that was made to the originally submitted plans was to pick up flag C-14, which was inadvertently left off the original survey.

Resident Jonathan Buckman, 540 South Avenue, asked whether the Commission's decision would include a determination on a stream located along the western property boundary. Mr. Garner and Mr. McCarron confirmed that this was not included in the ANRAD application and was not reviewed by Mr. Garner or Mr. McCarron in the field.

A motion to close the Abbreviated Notice of Resource Area Delineation hearing for 390 Highland Street, DEP File # 337-1416, and issue an ORAD was made by Ellen Freeman Roth; seconded by Josh Feinblum. Roll call vote 5-0.

Cont. Request for Determination of Applicability: 1 Warren Place; P. Caro

A motion to continue the Determination of Applicability for 1 Warren Place, RDA File # 2021-014, at the request of the applicant, to October 12th at 8:00 pm was made by Cynthia Chapra; seconded by Ellen Freeman Roth. Roll call vote 5-0.

The following administrative matters were then taken up in the following order:

A motion to issue a Certificate of Compliance for 276 North Avenue, DEP File 337-1368 was made by Cynthia Chapra; seconded by Josh Feinblum. Roll call vote 5-0.

A motion to issue a Certificate of Compliance for 128 Rockport Road, DEP File 337-0761 was made by Cynthia Chapra; seconded by Josh Feinblum. Roll call vote 5-0.

A motion to issue a Certificate of Compliance for 449 Old North Ave, DEP File 337-0550 was made by Josh Feinblum; seconded by Alison Barlow. Roll call vote 5-0.

Mr. McCarron provided the following Land Management Updates:

The Conservation Department and Weston Forest and Trail Association hosted a successful first Stewardship Saturday program on September 18th; the project involved installing and maintaining water bars for trail drainage in the Highland Forest. Conservation Staff and Mr. Tulloss hosted a group of Regis College Students for the same project as part of the college's Founders Day activities on September 23rd. The next Stewardship Saturday is scheduled for October 16th; project to be determined.

The Weston-Wayland Rotary Club will provide an update on their field management work at the Sears Driveway Field at the October 12th meeting.

The Japanese Knotweed that the Conservation Department has been managing at the Town Brush Dump will be treated with an herbicide by Town staff Ben Polimer sometime in the next two weeks.

The meeting adjourned at 10:30 p.m.