



NORWELL CONSERVATION COMMISSION

Room 112 / 345 Main Street / Norwell, MA

June 4, 2019 @ 6:30PM

Minutes

TOWN OF NORWELL
TOWN CLERK

2019 JUL 17 AM 9:52

RECEIVED

Present: Chair Marynel Wahl, Vice Chair Bob Woodill, Bob McMackin, Ron Mott, Roy Bjorlin, Justin Ivas, Ellen Markham, Conservation Agent Nancy Hemingway, and Recording Clerk C. Sullivan. Mr. Bjorlin arrived at 7:18 PM.

CALL TO ORDER

The meeting was called to order at **6:30 pm** by Chair Marynel Wahl. The meeting was recorded.

AGENDA ACCEPTANCE

The Commission reviewed the proposed agenda and discussed changes and additions.

Motion by Mr. Woodill to approve the agenda as submitted. Seconded by Mr. Mott and unanimously voted.

Please refer to the Complete Agents Notes to the Commission on all matters on the agenda, available in the Conservation Office.

FY 2019 End of Year Closeout

The Commission reviewed account balances and discussed additional spending needs prior to end of the fiscal year. Ms. Hemingway will use some general operations funds to replenish trail equipment and office supplies. She would consider subscribing to the MassDEP's Reporter or other reference materials if the Commissioners would use it. It was decided to put off repairs to trail equipment until the end of October, and to try to secure CPC or Town Meeting funding for the Stony Brook Cottage demolition.

All present discussed the purchase and use of a drone for monitoring purposes. Chair Wahl noted that drones with suitable cameras and features can cost upwards of \$2K; batteries are also expensive and don't last long. An FCC license and insurance are also required, and Commissioners will need to be trained on their operation. A sign-in system and secure storage are also needed.

Chair Wahl has signed up for a "drone for a day" program at the MACC conference, which will allow the Commissioners to try one a drone for a day and get a feel for its utility. Further discussion was tabled until then.

The Commission also discussed the use of funds to have ECR start on the wildflower field at Donovan West. Ms. Hemingway to contact them to request a proposal, which will have to be approved at the next meeting.

Motion by Mr. Mott to authorize the conservation agent to follow up with ECR regarding their proposal to establish a wildflower meadow at Donovan Field. Seconded by Mr. McMackin and unanimously voted.

COMMISSION BUSINESS

New Business

High School Projects

The Commission briefly discussed possibilities for Norwell High School service projects on September 20, including (but not limited to, see the complete list) trail maintenance at the Miller and Hatch properties. The

possibility of having students at NHS or South Shore Votech build the Simon Hill to Hatch Lots connector boardwalk was also discussed. Ms. Wahl suggest that the Commission obtain the needed boardwalk dimensions for further follow-up.

John Hull, follow-up to Eagle Scout Project
 Tabled, as Mr. Hull not present.

Norwell Farms
 Ms. Hemingway advised that Norwell Farms has asked for a continuation.

Old Business
Signage Discussion – Rules/Regs and uniform public land use policy
 Mr. Bjorlin is working on the regulatory language.

SUB-COMMITTEE UPDATES (OLD & NEW BUSINESS)

Open Space and Recreation	M. Wahl	CPC	B. McMackin
Land Protection	All	Trails and Signage	R. Woodill
Pathways	R. Woodill	Project Grid Review	All
Farming	R. Mott	Trail Work Update	N. Hemingway
Grants	B. McMackin	Bylaw Update	R. Woodill

Land Protection

The Commission discussed an offer by John Volpe to sell a 7 acre back portion of his property abutting existing Conservation land; Ms. Hemingway felt the parcel could provide a connection between Black Pond Hill Road and Cuffee Lane, but noted that an access easement would be needed to complete the connection. The Commissioners felt the asking price of \$100K was high, but authorized Ms. Hemingway to investigate further. It was noted that the Historical Commission might have interest as well.

Farming

Mr. Mott advised that he visited Norwell Farms with Historical Commissioner David DeGhetto, and observed that NF had run an above-ground cable from Main Street to the barn; he had no issue with the cable itself, but feels that NF should have consulted the Commission before doing so and routed the cable through an underground conduit for an existing electrical line. All parties discussed what sort of action and filing should be required. The matter will be discussed at the June 18 meeting, and Ms. Hemingway will use the Office GPS to mark the location of the utility conduit and other utilities and create a working GIS site plan. The plan will not be the official plan of record but rather used to ensure a complete understanding of infrastructure on site.

Nikki Bartley has asked about trimming tree branches hanging over the field; Ms. Wahl asked that they specify at the June 18 meeting that NF can trim tree limbs as part of field maintenance, but not cut down trees. Mr. Mott also noted that NF had contacted Highway Commissioner Glenn Ferguson about repairing the driveway to the barn; Ms. Hemingway indicated that NF needed to notify the Board of Selectmen for this. After some additional discussion regarding debris by the barn and a pile of bulbs near the greenhouse, Chair Wahl suggested that a joint meeting be set up with the Historical Commission and Board of Selectmen to coordinate dealings with NF.

MISCELLANEOUS

Bills

The following bills were presented for payment:

- Chris Sullivan - \$150.00 – meeting transcription
- Plymouth County Registry - \$77.00 – Jacobs Pond OoC recording
- WB Mason - \$12.33 – office supplies
- Steve McViney - \$741.00 – Trail work 4/2-5/29
- Norwell T&G - \$122.72 – Donovan pathway connector
- Nancy Hemingway - \$350.00- Mileage Feb 1- May 31

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Motion by Mr. Ivas to pay the bills as listed. Seconded by Mr. Woodill and unanimously voted.

Laurelwood Back Taxes

Treasurer Darlene Sullivan has asked the Commission to consider paying \$6818.48 in back taxes on a parcel of land transferred to the Commission during the construction of Laurelwood Drive. The developer did not pay these taxes, and the Commission at the time did not abate the taxes before the abatement deadline; Ms. Hemingway noted that the Conservation Agent position was vacant at this time.

After a brief discussion including the need for the Commission to have filed for the abatement and Darleen's role in notifying the Commission when properties become available, the Commissioners voted to pay the back taxes as requested.

Motion by Mr. Woodill to pay the Laurelwood back taxes. Seconded by Mr. Bjorlin and unanimously voted.

Peer Review - Schooner Estates

The Commission accepted John Chessia's quote of \$1500 for the Schooner Estates peer review; Ms. Hemingway noted that applicant had already deposited \$2K into the peer review account.

Motion by Mr. Mott to approve Chessia's Peer Review quote for \$1500. Seconded by Mr. Ivas and unanimously voted.

Peer Review Change Order - Simon Hill

The Commission approved an additional \$500 peer review funding to cover additional soil testing by Chessia.

Motion by Mr. Mott to approve the peer review quote revision. Seconded by Mr. Ivas and unanimously voted.

Minutes

The minutes for the April 2, April 23, and May 6, 2019 meetings were distributed. Commissioners reviewed and discussed corrections and changes.

Motion by Mr. Woodill to approve the minutes of the April 2 meeting as amended. Seconded by Mr. Ivas and approved by a 5-0 margin, Mr. Bjorlin having abstained.

Motion by Mr. Ivas to approve the minutes of the April 23 meeting as written. Seconded by Mr. Mott and approved by a 5-0 margin, Mr. Bjorlin having abstained.

Motion by Mr. Ivas to approve the minutes of the May 6 meeting as amended. Seconded by Ms. Markham and unanimously voted.

EXECUTIVE SESSION Discussion of issues and/or land offers/land of interest, disclosure of which will impact negotiating position of the Commission and/or Town.

7:30PM:

(Off) Circuit Street (Bl. 69, Lots 25, 26 & 30) aka: Hitchin' Post Lane / SE52-1149 & NCC# 29(18) / Road Construction & Stormwater Improvements NOI / OoC (cont.)

Applicant: Mark Raimondi (Circuit St. R/T) / Representative: Gary James, James Engineering

Applicant requested a continuation.

Motion by Mr. Mott to continue the matter to June 18, 2019 at 7:30 PM. Seconded by Mr. Ivas and unanimously voted.

86 Jacobs Lane: Pre-hearing Meeting / Applicant: Jane Rowan / Representative: Sally Coyle

Steve Ivas present with applicant Rowan. Commissioner Justin Ivas recused but remained as a citizen.

S. Ivas stated that the NHESP GIS layer showed the location of the vernal pool (VP) in question as being closer to the Rowan property than it actually is. He had flagged the wetlands around the VP, and the parcel is almost completely out of the buffer zone except for the southeast corner. He further stated that a modification to the fence location made on 6/3/19 moves every part of proposed project out of the 100 ft buffer to the VP.

Ms. Hemingway advised that she had consulted with Town Counsel Bob Galvin, who indicated that she did not have the authority to overrule NHESP data, even if inaccurate. She had no issue with S. Ivas field data, but stated that the proper way to overturn inaccurate NHESP data was an RDA or ORAD showing the actual location of the vernal pool. Once the Commission approves the new location, it can then send the new data to NHESP. If the landowner wanted to send recertified data directly to NHESP, they could do so, but this may take longer than filing with the Commission.

S. Ivas objected to what he characterized as his clients bearing the burden of a state mistake, and suggested that the Commission file an RDA to correct the NHESP data. Agent Hemingway stated that the Commission does not have the capacity to prepare a site plan, and did not feel it should do so. S. Ivas offered to provide a site plan with a wetland line delineated by a Professional Wetland Scientist and engineer's stamp at no charge.

Mr. Mott noted that an RDA was a relatively simple filing, and Mr. McMackin felt he would be unable to go against Town Counsel's advice. S. Ivas countered that Town Counsel was not an expert on NHESP GIS data layers, and stated that NHESP data had no legal standing.

After some further discussion, S. Ivas offered to contact Jacob Kubel at NHESP and request that the location of the VP in their system be updated based on his own data. Ms. Hemingway indicated that if he did this, and NHESP sent her confirmation of the update, she would be able to sign off on the project as being outside Commission jurisdiction.

8:00PM: PUBLIC HEARINGS LEGAL DOCUMENTS/VOTES

*****Legal Documents/Votes ***Minor Amendments, Reviews, CoC's**

*****Requests for Determination ***Notices of Intent ***Enforcements/ Violations**

81 Central Street / SE52-1074 & NCC# 45(14) / Addition

Request for CoC Applicant: Karen Raccuia / Representative: Edward Eisenhaure

Ms. Hemingway advised that the conservation markers required as a condition of the OoC had not yet been posted; she recommended a continuation, as she had not yet reached out to applicants.

Motion by Mr. Woodill to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Ivas and unanimously voted.

North River / NCC# 23(19) / Shipyard Marker Restoration Project

RDA / DoA (cont.) Applicant: Wendy Bawabe, Norwell Hist. Comm. / Rep: Caleb Estabrooks

Mr. Woodill read the Notice of Public Meeting. The matter was discussed at the May 21 meeting and then continued due to a delay in posting the legal ad. No further discussion took place.

Motion by Mr. Ivas to issue a Determination of Applicability, pos 2b, pos 5, neg 2, neg 3. Seconded by Mr. Woodill and unanimously voted.

Blockhouse Lane / NCC# 14(19) / Pave Existing Gravel/Dirt Driveway

RDA / DoA (cont.) Applicant: Roger Lowe / Rep.: Brendan Sullivan, Cavanaro Consulting

Mr. Woodill read the Notice of Public Meeting.

The matter was discussed at the May 21 meeting and then continued due to a delay in posting the legal ad. The following special conditions were applied:

Pre-start-of-work meeting

Erosion control at the limit of work

Paving limited to a width of 20 ft or the limit of existing compact surface, whichever is less

Motion by Mr. Ivas to issue a Determination of Applicability, pos 2b, pos 5, neg 2, neg 3, with conditions as noted. Seconded by Mr. Woodill and unanimously voted.

236 Bowker Street / NCC# 15(19) / Replace Existing Home Foundation

(After-the-Fact) RDA / DoA (cont.) Applicant: William Stella / Rep: Daniel Smith, P.E.

Mr. Woodill read the Notice of Public Meeting.

The matter was discussed at the May 21 meeting and then continued due to a delay in posting the legal ad. The project has been completed, and the home has been lowered onto the new foundation.

Motion by Mr. Mott to issue a Determination of Applicability, pos 2b, pos 5, neg 3. Seconded by Mr. Ivas and unanimously voted.

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Stony Brook Cottage / NCC# 11(19) / Demolition, Removal & Replacement of Run-down cottage with an osprey pole/nest & bench RDA/DoA (cont.)

Applicant: Norwell Conservation Commission / Rep: N/A

No public present, and no public comment has been received. Ms. Hemingway recommended that the hearing be closed.

Motion by Mr. Mott to issue a Determination of Applicability, pos 2b, pos 5, neg 3. Seconded by Mr. Ivas and unanimously voted.

Simon Hill to Hatch Lots (Burnt Plain Swamp) / SE52-xxxx & NCC# 21(19) / Trail Connection

NoI / OoC (cont.) Applicant: Town of Norwell Conservation Comm. / Representative: N/A

The matter was continued pending receipt of a DEP number.

Motion by Mr. Ivas to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Woodill and unanimously voted.

767 Grove Street / NCC# 22(19) / Patio Installation

RDA / DoA Applicant: Andrew Breda / Representative: N/A

Mr. Woodill read the Notice of Public Meeting.

Applicant present. The proposed activity is the installation of a patio on existing lawn. In response to a question from Mr. Mott, Applicant Breda indicated that they planned to have the excavated soils taken off site. Ms. Hemingway recommended that this be added as a special condition, and requested that applicant amend the site plan to accurately reflect the tree line.

The DOA was issued with the following special conditions:

Pre-start-of-work meeting

Erosion control at limit of work

Excavated soils to be removed off site

Amended site plan to be submitted to the Conservation Office

Motion by Mr. Mott to issue a Determination of Applicability, pos 2b, pos 5, neg 3, with conditions as noted. Seconded by Ms. Markham and unanimously voted.

43 Chittenden Lane / NCC# 24(19) / Replace Existing Fence, Remove 3 Trees & Grading

RDA / DoA Applicant: Steven Holmes / Representative: N/A

*Mr. Woodill read the Notice of Public Meeting.

Applicant has requested a continuation.

Motion by Mr. Mott to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Ivas and unanimously voted.

Mount Hope Street, Lot 2 / NCC# 25(19) / Construction of a Single-Family Home

RDA / DoA Applicant: Jennifer Zollin / Representative: Jeff Hassett, Morse Eng.

Ms. Hemingway advised that the matter must be continued to June 18 due to a delay in payment for and posting of the legal ad. She was unable to reach the landowner prior to the hearing.

Motion by Mr. Mott to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Ivas and unanimously voted.

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Mount Hope Street, Lot 2 / SE52-1162 & NCC#1(19) / (Remove Lot 2 from OoC & Replace w/ RDA)
Request to Amend. OoC Applicant: Jennifer Zollin / Rep: Jeff Hassett, Morse Eng

Minor amendment; applicant has requested a continuation.

RECEIVED

Motion by Mr. Ivas to continue the matter to June 18, 2019 at 8 PM. Seconded by Ms. Markham and unanimously voted.

155 Summer Street / SE52-1170 & NCC# 17(19) / Attached Garage & Inground Pool

NoI / OoC (cont.) Applicant: Michael Morse / Representative: N/A

The matter was discussed at the May 21 meeting and then continued due to lack of a DEP number. After a discussion of desirable special conditions, including construction taking place in the fall, the removal of old black pipes in the back yard, and installation of conservation markers, the matter was continued to allow for the submission of a more detailed site plan and a planting plan.

Motion by Mr. Mott to continue the matter to June 18, 2019 at 8 PM. Seconded by Ms. Markham and unanimously voted.

42 Harbor Lane / SE52-1171 & NCC# 18(19) / Removal of (29) Trees

NoI / OoC (cont.) Applicant: Melanie Guiney / Representative: N/A

The matter was discussed at the May 21 meeting and then continued due to a delay in posting the legal ad. Applicant has requested a further continuation.

Motion by Mr. Ivas to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Mott and unanimously voted.

256 Circuit Street / SE52-1172 & NCC# 19(19) / Addition, Pool, Patio & Retaining Wall

NoI / OoC (cont.) Applicant: Matthew & Karen Foy / Representative: Paul Mirabito, Ross Eng.

The matter was discussed at the May 21 meeting and then continued to allow for receipt of a DEP number

Mr. Mirabito presented an updated site plan, showing a temporary pathway for construction vehicles outside the 100 ft buffer, the proposed pool filter location, and a four-inch trench drain along the inside perimeter to direct pool/patio runoff away from the wetland. Excess water from backflushing was proposed to be directed down the driveway and onto Circuit Street

Mirabito advised that the Board of Health had approved the pool's setback to the existing septic system, and felt the pool's location plus associated fencing would prevent further encroachment into the buffer. Clean fill will be used for the inside of the retaining wall, and excavated soils will be hauled offsite. No stockpiling or movement of heavy equipment will take place over the septic system.

After a brief discussion about whether the discharged pool water could be pumped into the 50ft buffer, or had to be directed into the lawn, the project was approved with the special condition that discharge be routed away from the 100 ft buffer. Ms. Hemingway will draft and issue the decision on the 18th.

Motion by Mr. McMackin to approve the NoI with a short-form OoC and condition as noted. Seconded by Mr. Ivas and unanimously voted.

After the hearing, the Commissioners and Ms. Hemingway discussed whether to require that site plans be recorded at the Plymouth County Registry of Deeds prior to the start of work. All parties agreed that this may be desirable, but the question was raised as to whether this would constitute a hardship on applicants for small projects with hand-drawn plans. The matter will be placed on a future agenda for discussion.

101 & 111 Stetson Road / SE52-1169 & NCC# 16(19) / 9-Lot Subdivision including Roadway & Utilities NoI / OoC (cont.) Applicant: Mark McSharry, Stetson Rd, LLC / Rep: Al Loomis, McKenzie Eng.
Mr. Woodill read the notice of public meeting.

Applicant has requested a continuation, and that Commissioners take their site visits before the next meeting.

Motion by Mr. Mott to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Ivas and unanimously voted.

Lot 62, Stony Brook Lane / SE52-1153 & NCC# 34(18) / Single-Family Home NoI / OoC (cont.) App: Thomas Williams / Rep: Scott Goddard, Goddard Consulting

Valovia Costa, Goddard Consulting, present. The subject property is a vacant lot with an existing dirt road; applicant proposes to construct a single-family home, retaining wall, and driveway. The driveway would be inside the 50 ft buffer, the SFH and retaining wall would be in the 50 to 100 ft buffer, and the septic system is outside the 100 ft buffer. As mitigation, they propose to restore an old field area.

Ms. Hemingway felt that the proposal would not be permissible under current Commission standards, but that a previous proposal had been approved by the Commission in 2009 and the property owner had received a Court ruling, related to ZBA hearings, that the lot was buildable.

Mr. Mott asked whether the proposed SFH was larger than that approved in 2009; he would like to see the new house be no larger than the one previously approved. Mr. Costa felt the house size was essentially the same, but indicated he would check with the project engineer. Mr. Ivas commented that the existing road was completely overgrown, and characterized it as an existing fill area. Costa replied that this area was the only location for the driveway that didn't require additional fill, and it had been made as narrow as possible.

In response to a query from Mr. Ivas about staging, Ms. Hemingway indicated there was no room on the lot for stockpiling or storage; applicants would have to haul in and out materials as needed, and suggested peer review monitoring. Mr. Bjorlin commented that keeping activity outside the 50 ft buffer would be difficult given the narrow accessway to the lot; Ms. Hemingway concurred but stated the burden would be on the applicants to comply with the limits of use.

All parties also discussed ways to prevent further encroachment on the buffer zones if the project were approved, including the placement of conservation markers. Mr. Ivas felt the proposed retaining wall around the house would be of some assistance.

The Commission then discussed whether to approve or deny the project given the issuance of the previous OoC. Mr. Bjorlin felt the matter goes to the question of arbitrary or capricious decision-making, and that the Commission could reverse a previous decision, but would need tight reasoning to do so. Ms. Hemingway noted that the Commission had approved similar projects to this one, and felt it would be difficult for the Commission to reverse the 2009 approval and then prevail in Court considering they had recently approved reconstruction projects on several other homes in the near vicinity, closer to the River and BVW.

The Commissioners were then polled as to whether to deny or approve the project as proposed. Mr. McMackin felt they had to approve based on precedent. Bjorlin and Mott felt the project should be denied.

Mr. Ivas felt he could not approve or deny, but felt it would be inconsistent to deny after previously issuing an OoC for a house of the same size in 2009. Mr. Woodill felt the project should be approved, stating that the Commission had approved similar projects, and that the retaining wall will protect against further encroachment.

Ms. Hemingway also asked the Commissioners whether they would approve the project if the previous OoC had not been issued; consensus was that they would not. After some further discussion, the matter was continued so the Commission could receive an opinion from Town Counsel. They also asked for information regarding the proximity of this project compared to the permit issued in 2009.

Motion by Mr. Bjorlin to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Mott and approved by a 5-1 margin, Mr. Woodill having voted no.

16 Circuit Street / SE52-1159 & NCC# 40(18) / Installation of a Pool & Fence
NoI / OoC (cont.) App: Kevin McKinnon / Rep: Darren Grady, Grady Consulting

Applicant has requested a continuation.

Motion by Mr. McMackin to continue the matter to June 18, 2019 at 8 PM. Seconded by Mr. Ivas and unanimously voted.

ADMINISTRATIVE PERMITS & REQUESTS:

Damon Farm

Jim Burke, representing Damon Farms, requested approval to install customized conservation markers reading as follows:

Conservation Area

Please Protect

No mowing, No Cutting, No Vehicles

Any questions please call Norwell Conservation 781-659-8022

Motion by Mr. Ivas to approve the markers as proposed. Seconded by Mr. Woodill and unanimously voted.

PENDING SUBDIVISION / COMMERCIAL DEVELOPMENT UPDATES

PUBLIC MEETINGS

VIOLATION DISCUSSIONS

ENFORCEMENT HEARINGS

None

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AGENT'S REPORT

DEP Southeastern Circuit Rider Andrew Poyant has advised that delineations are presumed to be accepted as valid for three years unless an order specifies that they are not. Ms. Hemingway recommended that the Commission adopt a standard condition assuming such delineations not to be valid unless specified otherwise in the order.

Motion by Mr. Woodill to add a standard condition to the short- and long-form OoCs not accepting any flagging or delineation as valid unless specified on the OoC. Seconded by Mr. Ivas and unanimously voted.

Ms. Hemingway will arrange for a discussion with consulting engineer John Chessia regarding puncturing of the restrictive soils layer sometime in July. Chair Wahl commended Ms. Hemingway for her recent well-attended climate change symposium.

**SCIENCE AND REGULATION IN THE NEWS
EDUCATION AND TRAINING OPPORTUNITIES**

<i>Next Meeting</i>		June 18, 2019
<i>NEW filing applications due date/deadline</i>		June 4, 2019 @ noon
<i>Legal Notice publication date-Patriot Ledger</i>		June 10, 2019
<i>Revised Information submittal deadline</i>		June 11, 2019 @ noon
<i>Peer Review Supplemental Info Deadline, CoC Requests, Minor Modification & LP Requests</i>		June 11, 2019 @ noon
<i>Public Information Written Comments</i>		No deadline

ADJOURNMENT

There being no further business, a motion was made by Mr. Bjorlin to adjourn at 9:10 PM. Seconded by Mr. Ivas and unanimously voted.

I hereby certify that the above minutes were presented and approved by a majority vote by the Norwell Conservation Commission on July 16, 2019.

Marynel Wahl, Conservation Chair Marynel Wahl