

Conservation Commission Meeting  
Virtual Meeting  
April 15, 2021

Roll call was taken of members and staff present included: Peg Arguimbau, Chair, Meredith Avery, Vice Chair, Colin Barbera, Stephen Cremer, and Keevin Geller. Alan Westman and Jon Wasserman were not present. Staff present included John Thomas, Conservation Administrator and Jana Katz, Clerk.

Arguimbau opened the meeting by reading Governor Baker's Executive Order of March 12, 2020. Per guidance from the State, Arguimbau noted that all votes would be taken by roll call. She then reviewed the ground rules for the meeting.

The remote meeting was called to order at 7:30pm.

**7:30 PM Continued Public Hearings Amended Order of Conditions, 164 Beach Street**

Property owners of 164 Beach Street, Paul and Rachel Liberman were present. Arguimbau read the public notice as it is an amendment. Liberman reviewed the proposed amendment to previously approved plans: minimize the scope of the work and move the in-ground pool further from the wetlands. Formal discussion occurred at the previous meeting, no changes made since then. Thomas shared his screen as Arguimbau commended the amendments and accommodations. Work will start under the older order and when the Amended OOC is issued, the new part will begin. Mike Khoury from MDLA shared his screen to show the amended plan which includes: removal of infinity edge basin, the stairs leading down, and retaining walls. Arguimbau asked for any questions, there were none.

**Motion:** To close hearing referencing amended plan.

Geller moved

Avery seconded

Cremer – Aye, Barbera – Aye, Avery – Aye, Geller – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

**7:40 PM New Public Hearing RDA, Amtrak, Vegetation Management Plan**

Tom Lewis from TEC Associates discussed MA GIS Maps regarding the proposed Vegetation Management Plan while Thomas shared his screen. The plan included one change going through MA GIS Zone 1's public well, northeast of Wolomolopoag Rd. He described that Zone 1 looked unchanged on the MA GIS map though he was uncertain if it increased in size. Arguimbau noted that there is a larger "no spray" area every two years. Lewis agreed saying it is based on water supply. The maps illustrate a diamond hatched pattern with purple outlining the groundwater discharge. Roughly 80% of Sharon where Amtrak runs is in Zone 2. A portion close to the Canton line is not within Zone 2 so applications are accepted yearly with the exception of "no spray" areas. Arguimbau stated she would like the Commission notified when spraying begins. Lewis stated there should be a copy sent on the 7<sup>th</sup> with the operation plan. He stated every year the Board of Selectmen, the Board of Health, and the Conservation Commission will get the operation plan that allows for a 45 day public comment period. The document states the products used in all plans. The letter includes the date range for application. Lewis stated his purpose at the meeting was strictly to ask for the delineation that will govern for five years. The two matters are separate but related. Thomas stated there is no issue with delineation as it is currently. No abutters present.

**Motion:** To proceed per the plan presented to the Commission

Cremer moved

Geller seconded

Cremer – Aye, Barbera – Aye, Geller – Aye, Avery – Aye, Arguimbau – Aye  
5-0-0 (Motion Passed)

**7:50 PM New Public Hearing RDA, 9 Briggs Pond Way, New Second Floor Addition**

Stephen Cacciapaglia discussed the proposed plan for concrete supports for sonotube footings to support a second floor addition on an existing house. No abutters were present. Thomas shared his screen which illustrated plans for a master bedroom to be constructed over an existing deck that is on the ground floor. Two concrete footings would be required.

Arguimbau asked where the driveway is located and where vehicles will be accessing the construction site. Cacciapaglia identified the driveway as an access point which is not in proximity to the septic system. The tubes will be 48 inches below grade; the area will be dug by hand. Arguimbau noted the plan includes relatively little disturbance.

Arguimbau noted the deck provided shade already to the current impervious area. Cacciapaglia noted the deck will be removed to install the sonotubes and Arguimbau clarified that end of the project will look like part of a house on pole. There were no other questions.

**Motion:** To close hearing and issue a negative determination with the condition of notifying the office at the start of work.

Avery moved  
Barbera seconded  
Cremer – Aye, Barbera – Aye, Avery – Aye, Geller – Aye, Arguimbau – Aye  
5-0-0 (Motion Passed)

**7:55 PM Other Business Approval of Minutes from April 1<sup>st</sup> Meeting**

Arguimbau noted one necessary change at 8:07 in Other Business on the third line the word “down” should be “town.”

**Motion:** To accept minutes as amended

Cremer moved  
Geller seconded  
Cremer – Aye, Barbera – Abstain, Avery – Abstain, Geller – Aye, Arguimbau – Aye  
3-0-2 (Motion Passed)

**7:57 PM Other Business Signatures at Town Hall**

If timing permits, digital signatures will be used; otherwise pages will be at Town Hall.

**7:58 PM Other Business Lake Management Committee**

Thomas informed the Commission that the LMC is looking to a Natural Heritage Survey for species for treatment proposed for September 1<sup>st</sup>. The lake level was noted to be at 10.5.

**8:00 PM      New Public Hearing RDA 174 Mansfield Street, Alteration in Buffer Zone**

Dave Oberlander from BDO Engineering and property owners Simon Brook were present. Thomas shared his screen showing the existing house lot and a horse farm including six buildings with stalls and pasture land. Brook brought the property and demolished the horse stalls and previous house which were all outside of Conservation Commission jurisdiction. A small brook to the eastern end of the site cuts across  $\frac{1}{4}$  of the property towards the property line. The brook shows up on USGS maps. On January 6<sup>th</sup> a small amount of water was noted and then disappeared, percolating into the ground. Thomas went to visit and noted that the area does not seem like a stream or wetlands.

The question of jurisdiction under the Rivers Protection Act came up. Proposed work is limited to the area between the 100 and 200 foot setback from the brook, although he would like to grade the area. Currently the land is an overgrown pasture. The property owner would like to remove some big trees and lessen the slope off the back of the house. The existing contours show a depression on the land, he would like to flatten the grade

The RDA has two parts: to agree with the delineation that there is no stream on the property and therefore the project is not within the Conservation Commission's jurisdiction. If the Commission believes there is a stream on the property than the applicant is asking for permission to remove dead trees and grade the lawn area.

Thomas noted he did not see continual running water that would indicate a perennial stream or wetland vegetation. He stated there is definitely overland flow that comes out from the culvert but nothing definitive to define a bank. Avery noted that due to the drought last year and the January and March surveys this year evidence of a stream may not be present at the moment but does not mean there is no stream at all. The Commission decided to approve the plans and issue a Negative Determination without determining the existence of a perennial stream.

**Motion:** To close hearing and issue a Negative Determination with the condition that the office get notice when the project is starting.

Geller moved

Barbera seconded

Cremer – Aye, Barbera – Aye, Geller – Aye, Avery– Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

**8:14 PM      New Public Hearing NOI 280 Everett Street New Residence**

Jeff Kane from LAL Engineering Group spoke on behalf of the property owner, Frank Gobbi. Thomas shared his screen which identified two lots falling within Conservation Commission jurisdiction. Lots were created in 2014 as part of the Everett Street Improvement projects. Kane said, "It was known that a NOI would be required when it came

time to build a house on the lot". There is a Bordering Vegetative Wetland located north of 284 Everett St and the 100 foot buffer zones include part of the property located at 280 Everett Street although there are no wetlands located on either parcels. Plans do not include work in the buffer zone or wetlands. The area is not considered an Area of Critical Environmental Concern.

The lot itself is 1.4 acres and plans include a 4,200 square foot home with associated driveway and onsite Title V Septic System. The permanently disturbed buffer zone would be 3,600 square feet. Six hundred square feet of that would be rooftop: permanently impervious area.

Kane explained the project in relation to Performance Standards. There is no proposed work within the BVW to meet Performance Standards required by the State. There is also no work proposed in an estimated habitat of rare wildlife or within an ACEC. The town's performance standards are met as there is no plan for alterations on a previously developed lot. There is a 50 foot no disturb limit from BVW. The filing included construction methodology. As the buffer zone will be permanently altered the plan includes proposed mitigation.

Kane continued explaining that this project is part of the low development Everett Street Improvement project. This project is also providing roof drains that will capture runoff and return them to the ground which is the same performance standard included in the 2008 Storm Water Protections Act. There is also a buffer enhancement planting plan with Norway Spruce and Winterberry. The project also includes erosion controls from construction to stabilization.

Continuing, Kane mentioned the stone swail next to the driveway and the chambers infiltrating the roof water were part of the Special Conditions issued with the Order of Conditions for the Everett Street Improvement project.

Arguimbau stated there are issues as this will be a newly constructed home, the regulations do not allow any new construction within the 100 foot buffer zone. An existing structure would be different.

Kane stated he reviewed the regulations with Thomas and surmised there is only a 50 foot setback. Additionally, if it was a previously disturbed lot, the alteration within the 100 foot buffer zone would only have a condition of the no disturbance in the 50 foot setback. Kane noted Section A in 5.06 does not mention no work in the 100 setback.

Arguimbau responded saying the intent of the rules and regulations was to allow already existing structures that were located within the 100 foot buffer zone to potentially work in the buffer zone but no new construction. Arguimbau stated she needed to review the language.

Kane stated in 2014 the initial plans in 2014 included the two lots described at the meeting which were in the 100 foot buffer zone as well. The plan for the houses were located on the lots at the time.

Arguimbau responded that the property owner at the time knew the Commission would have to review any future plans. It may be reconfiguring the plan to meet performance standards. The language needs review. The DEP# is 280-628. Arguimbau proposed the hearing be continued until the first Thursday in May on May 6<sup>th</sup>. Arguimbau confirmed Town Council also reviewed the drafts of rules and regulations to clarify the status of new construction in the 100 foot buffer zone.

Kane clarified that the Commission's intent was a 100 foot no disturb. Arguimbau agreed that was the question – for new construction to maintain the 100 feet. Arguimbau discussed the proposed buffer enhancement in the 50 foot buffer zone and would like to see the details of the plan.

Arguimbau plans to review minutes regarding the Everett Street Improvements project with Thomas.

**Motion:** To continue the hearing to 7:50 on May 6, 2021

Cremer moved

Avery Seconded

Cremer – Aye, Barbera – Aye, Geller – Aye, Avery – Aye, Arguimbau – Aye

5-0-0 (Motion Passed)

**8:31 PM New Public Hearing NOI 12 Lyndon Road Addition to Residence**

Russ Waldron presented on behalf of the property owner, Wilder Diaz. The application proposed a 433.2 square foot addition to an existing home. Thomas shared his screen. One error on the project description was note: the closest distance the disturbance will be to the bank is 49.8. There will be a total of 3% disturbance to the riverfront area and 3.7% for the entire buffer zone. The addition will be supported by concrete pillars and footings in an effort to minimize ground disturbance. There is discussion with the property owner about rain gardens and other natural mitigation methods either on the far right of the property or the front near the driveway depending on the pitch of the gutters.

Arguimbau confirmed all work will be in existing lawn area. Waldron confirmed access will be on the driveway side of the house.

Avery questioned Waldron about a grading plan stating if plans include a retaining wall that indicates there is grading deferential. Waldron replied that the surveyors said there was no need for grading. Arguimbau noted that grading the retaining wall and grading appear to be within 100 feet of the RFA.

Arguimbau also stated that the hearing cannot close until DEP issues a file number. A revised plan and narrative will also be necessary to close the hearing.

**Motion:** To continue the hearing pending receipt of the DEP# with the revised plan and revised narrative.

Cremer moved  
Barbera Seconded  
Cremer – Aye, Barbera – Aye, Geller – Aye, Avery – Aye, Arguimbau – Aye  
5-0-0 (Motion Passed)

**8:48 PM Continued Hearing 17 Castle Drive In ground Pool**

Brian and Shaunelle Ciccariello provided an update for the Commission describing a survey identifying a perennial stream 130 feet from proposed work as the location of the pool remains the same since the last meeting. Thomas shared his screen.

Thomas stated there is a question if the Conservation Commission can approve the plan as it exceeds what the commission can approve in a RFA. The WPA limits the amount the Conservation Commission can approve – up to 5,000 square feet of 10% of the RFA, whichever is greater. The application states there will be 7,000 square feet of disturbance with only 12,000 square feet of RFA.

Avery noted that the grading on the plan would be a temporary alteration. If the proposed pool and deck measurements are below 5,000 square feet the Commission should be able to approve the project, according to Avery.

The Commission agreed the calculations need reconfiguring but not that plan itself. Thomas agreed to reach out to Andrew Poyant at DEP. The hearing will be continued to May 6, 2021 but the applicants do not need to be present.

**Motion:** To continue the hearing to May 6, 2021.

Avery moved  
Geller Seconded  
Cremer – Aye, Barbera – Aye Geller – Aye, Avery –Aye, Arguimbau – Aye  
5-0-0 (Motion Passed)

**9:00 PM Other Business Humanities Lake Project**

Cass Barbera, Colin's daughter, will be working with Linda Berger and the Recreation Department on a demographic project about Lake Massapoag. Arguimbau stated the Commission would benefit from the information and talked about inviting her to a meeting.

**9:02 PM Other Business 140-142 Ames Street**

Thomas described worked being done in proximity of Massapoag Brook at a residence located at 140 Ames Street while sharing his screen. He spoke with the landowner about installing erosion controls until he is able to file a permit for the work. There are two separate owners for 140 and 142 Ames Street with a shared backyard which is being hydro-seeded.

Arguimbau noted it was a Septic Replacement in 2016 and there may be revegetation and buffer planting concerns.

Thomas also gave an update on the Harding St. violation – Thomas instructed the person in violation to remove the material by hand and install revegetation or plantings later.

**9:05PM Other Business Deborah Sampson Street Conservation Restriction**

Property owners requested an Estoppel Certificate, Thomas reached out to Steve Allen at Town Counsel and confirmed there is no issue with the current Conservation Restriction.

**9:06 PM Other Business Nation Honor Society and Adam Langstein**

The Sharon High School Nation Honor Society will be cleaning Massapoag Trail.

**9:07 PM Other Business Storm Water Management Meeting**

Arguimbau, Avery, and Thomas met with Fred Turkington, Peter O’Cain, Kevin Davis, and Kerry Snyder. Snyder represented the Neponset River Watershed Association. Snyder previously sent an e-mail with an annotated bylaw based on the Town of Westwood’s 2016 bylaw; the purpose being to comply with MS4, the EPA, and MA DEP.

The language currently states Conservation Agent/Administrator will represent the Commission as the Storm Water authority. Enforcement would be a joint effort headed up by the Engineering Department and the Conservation Commission. Arguimbau noted that when the previous Conservation Agent was leaving the Commission was advocating for a new position to handle these matters instead of the Commission taking over dam management. Thomas stated that his understanding is that the Commission would take on the administrative responsibilities while the DPW would oversee the engineering aspects of dam management. Cremer brought up the issue of funding. Thomas stated the Town would provide funding with the potential for grant opportunities. Avery questioned the Conservation Commission overseeing the structural functions and expressed a desire for the Commission to avoid taking on dam management. The Commission would like to invite Kerry Snyder to a meeting to discuss the matter.

**8:30 PM Motion to Adjourn**

**Motion:** To adjourn

Cremer moved

Barbera Seconded

Cremer – Aye, Barbera – Aye, Geller – Aye, Avery–Aye, Arguimbau

5-0-0 (Motion Passed)