

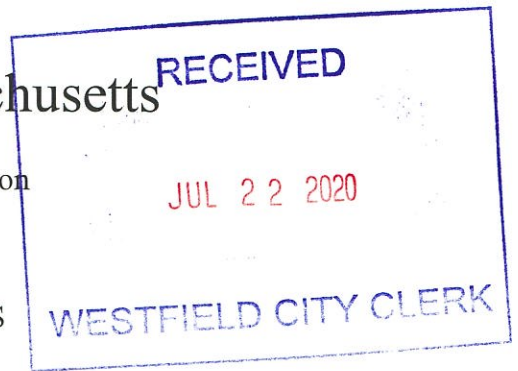


City of Westfield, Massachusetts

Municipal Conservation Commission

June 23, 2020

REMOTE MEETING MINUTES



Conservation Commission members in attendance: Chairman David Doe, Vice Chairman James Murphy, Thomas Sharp, Carl Grobe, Alex Fagnand and Robert Florek. Also in attendance: Meredith Borenstein, Conservation Coordinator and Colleen Fegan-Nunez, Administrative Assistant.

Commissioner Doe reads: *Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the City of Westfield Conservation Commission will be conducted via remote participation. Specific information can be found on the City of Westfield website at www.cityofwestfield.org. For this meeting, members of the public who wish to listen to the meeting may do so by tuning into Channel 15 or online at westfieldtv.org. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the City's website an audio recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.*

1. CALL TO ORDER

Chairman Doe calls the meeting to order at 6:30 pm. He takes attendance. All Commissioners are present except Commissioner Laraway.

2. OPEN PARTICIPATION

Chairman Doe asks if there is any new business. Clerk Nunez asks that the Commission be sure to mute themselves when they are not speaking. She states that the background noise is making it difficult to hear on the recording.

Coordinator Borenstein states that she would like an approval to remove the erosion controls at the Roots Athletic Center foot bridge project. She states that she performed a site visit on 6/22. She states that the slopes are stable and that no heavy equipment was used. Coordinator Borenstein states that the only step left per the conditions is the removal of the erosion controls. Commissioner Sharp states that the job was done very well. He states that it looks great. Commissioner Grobe agrees. Chairman Doe asks if there are any other questions. There are none.

Commissioner Sharp motions to approve the removal of the erosion controls at the Roots Athletic Center and is second by Commissioner Grobe. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

3. PUBLIC HEARINGS

- A. 0 Rachael Terrace (36R-53 & 55)-Charles and Marla Pignatare-DEP File # 333-791
Mr. Ryan Nelson of R. Levesque and Associates Inc. is present representing Mr. and Mrs. Pignatare.

Coordinator Borenstein states that a site visit was performed on 6/22. She states that no trees will be removed and that all of the performance standards for Riverfront Area are met. Coordinator Borenstein states that as part of those performance standards, it is important that an alternative analysis has been done, to look at the site and determine if there is any way to avoid and minimize impacts. She states that there is a narrative in the NOI outlining the alternative analysis. Coordinator Borenstein states that the plans have been updated to add the monumentation at the 200 foot Riverfront Area line, where no work is occurring. Commissioner Grobe asks if this will interfere with the removal of the dirt piles. Mr. Nelson states that the addition of the boulders will be one of the last things done. Commissioner Sharp asks how many boulders there will be and what size they will be. Mr. Nelson states that there will be eleven. Commissioner Sharp states that he is a bit confused about the agricultural use of the properties. He states that he does not see any sign of agricultural use. Mr. Nelson states that it is farmed in the summer and annual Ryegrass is planted to stabilize the site during the winter. He states that no planting was done this year due to Mr. Pignatare anticipating the sale of the lots. Commissioner Sharp asks how close the boulders will be together. Mr. Nelson states that they are between fifty and one hundred feet apart depending on the lot. Commissioner Sharp asks for the plan on removal of the soil piles. Mr. Nelson states that erosion controls will be put around the back side of the soil piles and then the equipment will be brought in from Nancy Circle. He states that no work will take place beyond the tree line. He states that the piles will be removed to the grade of the area next to it. Commissioner Sharp asks if there will be plantings in the area. Mr. Nelson states that the forest will fill in rather quickly. Vice Chairman Murphy states that the boulders should be subsurface twenty percent so that the boulders are difficult to move. Coordinator Borenstein states that she is concerned that the area will be mowed. She would like one or two signs to remind future buyers of the resource areas. Chairman Doe asks if there are any other questions. There are none.

Vice Chairman Murphy motions to close the Public Hearing and is second by Commissioner Fagnand. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

The Commission decides on a \$2500.00 Bond.

Commissioner Fagnand motions to accept the Order of Conditions as written and is second by Vice Chairman Murphy. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

4. PUBLIC MEETINGS

A. 32 Gifford Street (214-7)-Real Tanguay

Two story addition on to single family home located outside the 100foot Buffer Zone. Ms. Kathleen Tanguay is present.

Chairman Doe reads the legal language. Coordinator Borenstein states that she did a site visit. She states that a few years ago a negative determination was issued on this property. A small section of the property is in the Buffer Zone. Chairman Doe states that the work is outside of the jurisdiction of the Commission.

Vice Chairman Murphy motions to close the Public Meeting and is second by Commissioner Grobe. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

Vice Chairman Murphy motions:

- a. Negative 1 The area described in the Request is not subject to protection under the Act or the Buffer Zone”

And is second by Commissioner Grobe. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

B. 98 Southwick Road (15R-7)-Lisa Pac

Upgrade an existing patio and associated site improvements within the 100foot Buffer Zone.

Ms. Lisa Pac and Ms. Jennifer Deforge are present.

Chairman Doe reads the legal language. Ms. Pac states that a fence will be placed on top of the slope, the patio will be replaced, the pergola will be replaced and a walk in cooler will be installed. Ms. Deforge states that the new surface will be a monolithic concrete slab so the outer edge will be eighteen inches thick and all of work will be inside that concrete slab. She states that there are many invasives that the owner would like to remove and plant some other plants that would hold the slope together. This would occur only in the area of construction. Coordinator Borenstein asks where the invasives will be removed and whether the removal will be within the erosion controls. Ms. Deforge states that the erosion controls will be at the top of the slope, but she is wondering about putting straw at the bottom of the slope. She states that work is about eighty feet from the wetland. Ms. Deforge states that the invasives will be removed about twenty feet down the slope. Chairman Doe asks how open the hillside will become. He is concerned that the slope will erode during a storm. Ms. Deforge states that the work will be done in sections. Vice Chairman Murphy states that in the past, there was a collapsed storm drain and a lot of siltation at the bottom of the slope. He asks how close the work the storm drain will be. Ms. Deforge states that the drain is to the right of the work, almost twenty feet away. Vice Chairman Murphy asks if it is functioning. Ms. Deforge states she is not sure. Vice Chairman Murphy asks how the stormwater from the patio will be handled. Ms. Deforge states that a rain garden before the fence could be created or the water can be directed

along the left side of the building toward the green house. Ms. Pac suggests using the storm water in the green house. Vice Chairman Murphy is concerned about the change causing flow that will erode the slope or redirection that could starve the wetland. Commissioner Florek states that jute will stabilize the soil. He states that jute does a really good job of stopping erosion in sandy soil. Commissioner Sharp states that he would like a site visit. Chairman Doe agrees. Chairman Doe asks if there are any further comments or questions. Vice Chairman Murphy asks when the applicant would like to begin this project. Ms. Pac states as soon as possible. Ms. Deforge asks if continuing the project means that there can be no approval tonight 6/23. She states that the applicant would really like to move on this project. She asks if there is any way to start prepping the work until the next site visit. Chairman Doe states that it has been many years since the last time the Commission has seen the property. Chairman Doe asks if there are any other questions. There are none.

Commissioner Sharp motions to continue until July 14, 2020 at 6:30 PM and is second by Vice Chairman Murphy. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

- C. 106 Ely Street (4R-92-2)-Emma Rood
Removal of three trees within the 100-foot Buffer Zone.
Ms. Emma Rood is present.

Chairman Doe reads the legal language. Ms. Rood states that she has three trees. One that is dead, one that is being strangled by Bitter Sweet and one that is very tall and blocking the sun to her pool. She states that there are two more that are outside of the resource area that she would also like to take down. Coordinator Borenstein states that there is an intermittent stream in the applicants' back yard. She suggests a site visit for the Commission. Coordinator Borenstein states that the trees are stabilizing the slope to the intermittent stream. She is concerned that by removing these trees, the slope could become destabilized. Ms. Rood states that she would cut down just part of the very tall tree as a compromise. Vice Chairman Murphy and Commissioner Grobe both request a site visit. Chairman Doe asks if there are any other questions. There are none.

Vice Chairman Murphy motions to continue until July 14, 2020 at 6:30 PM and is second by Commissioner Grobe. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

- D. 18 New Broadway (36R-53 and 55)-Mary Ann Fedor
Construction of addition to a Single Family Home.
Mr. Ryan Nelson of R. Levesque Assoc. Inc, and Ms. Mary Ann Fedor are present.

Chairman Doe reads the legal language. Mr. Nelson states that there are two existing small vacant cottages on the property; one is known as 20 New Broadway and the other is 18 New Broadway. The proposal is for an addition that would link the two cottages. 20 New Broadway would be integrated into the home and 18 New Broadway, which is closest to the pond, would be converted to a deck off the back side of the home. The existing driveway would be used to get to the house and there

will be a garage within the structure. The entire project is within a grassed lawn area. There are some Japanese Knotweed on the property right now. Mr. Nelson states that before any work a silt fence would be installed between the project site and the bank of Pequot Pond. He states that all of the work is within the Buffer Zone. He states that there will be no site grading because the site is very flat. Mr. Nelson states that there are a couple of dead trees that need to be removed. Commissioner Sharp asks if the project is within the existing foot print of the buildings. Mr. Nelson states that it is not. He states that the project is to connect the two buildings. Commissioner Sharp states that the buildings will be no closer to the resource area than they are now. Mr. Nelson states that is correct. Commissioner Grobe states that the amount of impervious surface will increase fairly significantly. Mr. Nelson states that is correct. He states that the property is very flat and the soil is very sandy so he does not see erosion as a problem. He states that any water is most likely to infiltrate in place. He states that dry wells could be installed for the roof leaders of the addition. Chairman Doe states that he would like a site visit. Commissioner Grobe asks if the existing driveway to both cottages would be the one that went to the garage. Mr. Nelson states that it is a dirt driveway right now and yes the new dirt drive will go to the new garage. Chairman Doe asks if 20 New Broadway will be reconstructed. Mr. Nelson states that the foundation will remain and be utilized but it will need a remodel to integrate it with the addition. Commissioner Fagnand asks if there is a third structure on the property. Mr. Nelson states that it is a separate property. Vice Chairman Murphy asks what the plan is in order to restore trees. Mr. Nelson states that he was on the property a couple of weeks before and the area is mostly Japanese Knotweed. Chairman Doe asks if there are any other questions. There are none.

Commissioner Grobe motions to continue until July 14, 2020 at 6:30 PM and is second by Commissioner Fagnand. CG-Yes, AF-Yes, TS-Yes, JM-Yes, RF-Yes

E. CSX Transport Right-of-way (ROW)
Confirmation of Wetland Boundaries.

Chairman Doe reads the legal language. Applicant requests continuance until July 14, 2020 at 6:30 PM.

Vice Chairman Murphy motions to continue until July 14, 2020 at 6:30 PM and is second by Commissioner Grobe. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

5. ENFORCEMENT

A. 60 Lewis Road-(65R-30)-Sergiy Suprunchuk
Clearing in the Buffer Zone to Buck Pond; Installation of a staircase and dock without a permit.

Coordinator Borenstein states that a few more complaints came in after our last meeting. She states that there was a neighborhood consensus that planting a few trees and shrubs was not enough given that there aren't any docks allowed on Buck Pond.

She reminds the Commission of the Enforcement. She could not find on any aerial photos that the dock or staircase were there to begin with. She asks how the Commission would have permitted this project had the property owner come before them with this project. She states that she wouldn't have allowed the entire slope to be cleared. Chairman Doe asks if there is a regulation that states that docks are not allowed on this pond. Coordinator Borenstein states that she is unsure but she will look into it. Vice Chairman Murphy states that in the past the Commission asks for floating docks because they are the least invasive. Commissioner Sharp states that at the site visit, the owner had assured the Commissioners that there had been a dock there and he can see no reason why the Commission would have "outlawed" docks on this particular pond. Coordinator Borenstein states that she looked at old aerial photos and did not see any dock but the photos only went back to the year 2000. Commissioner Sharp states that he would rather not discuss this any further without the property owner being at the meeting. Commissioner Fagnand states that the Commission had previously decided that the clearing was an enforceable item and then we discussed revegetation. At that time, we decided that the dock wasn't that significant of an issue, the way that it was installed. Commissioner Fagnand states that if there are other abutters that want docks, and it is legally permissible, then there is no reason that we would stop them, if they brought the Commission a proposal. He states that he guesses that they would be upset that Mr. Suprunchuk got away without filing the permit but we are enforcing restoration of the slope. He states that we can call Mr. Suprunchuk back or tell people to file a permit. Commissioner Fagnand asks if the Commission has an issue with the action that they already took. Commissioner Sharp states that he would like to discover who is telling the truth about whether the dock was existing or not. Commissioner Grobe suggests that perhaps dock installation is an ordinance rather than a Conservation issue. Vice Chairman Murphy states that docks are structures in resource areas and that the Commission does have authority over them. Commissioner Fagnand states that this is becoming a "he said, she said" situation where at the site visit the Commission believed the property owner when he said the dock was already there, and now the neighbors are telling the Commission that it wasn't. He states that he is unsure as to how to resolve this. Chairman Doe states that perhaps there is some agreement among the neighbors that nobody puts a dock in. He states that it is unusual for no docks to be allowed on a body of water. Commissioner Florek ask what the Hampden Pond Association bylaws would say. Chairman Doe is unsure if this pond is part of the association. City Councilman Bill Onyski states that it is not a Home Owners Association. He states that it is an association of concerned neighbors that are looking into the good of the Hampden Ponds area. He states that he does not believe that there are any legal rights over the pond. Councilor Onyski states that a few years ago the Conservation Commission approved an emergency dock that went in to the main pond. It was the state ramp. Commissioner Fagnand states that he looked at aerial imagery and there are a few other properties on this pond with dock-like structures. He states that there is definitely not "nobody" with docks on the pond so there are holes in that story. Chairman Doe asks if any of the Commission would like to change the ruling of the last meeting. Commissioner Grobe states that he is happy with the decision that the Commission made unless we are presented with some solid evidence that is contrary

to the evidence presented at the time that the decision was made. Chairman Doe states that the main concern was stabilizing the bank. Coordinator Borenstein asks if the Commission would like to request more plants for bank stabilization. Commissioner Fagnand states that he does not want to revisit a decision that the Commission already made with the property owner present and that the Commission was comfortable with the enforcement unless evidence is presented that totally changes the understanding of the site. Chairman Doe states that after the requested plants are installed, the Commission can revisit the number. Coordinator Borenstein states that she is unclear as to whether the dock is floating or anchored. Vice Chairman Murphy states that a floating dock is literally floating. Coordinator Borenstein states that she will ask the property owner. Coordinator Borenstein states that she will follow up with the plantings and the Commission can revisit this if the number of trees and shrubs is unsatisfactory.

6. DISCUSSION

A. 565 North Road (70R-22)-Patrick Smith

Re-grading a dirt lot in the Buffer Zone without a permit or erosion controls.

Coordinator Borenstein states that she sent a letter to the property owner but has yet to hear from them. She asks to continue this until she is able to contact the property owner.

Vice Chairman Murphy motions to continue until July 14, 2020 at 6:30 PM and is second by Commissioner Grobe. CG-Yes, JM-Yes, TS-Yes, AF-Yes, RF-Yes

B. 484 Montgomery Road-Emergency Certification (EC)

Failing septic system.

Chairman Doe asks if there are any concerns about this being in the resource area. Coordinator Borenstein states that the homeowner has a wetland on their property that is part of the Sampson Conservation Area. She states that there is a septic plan that has been approved by the Board of Health. The homeowner has been living with minimal water usage. She states that she will condition the EC to have erosion controls in place and to contact her to approve them after installation. She states that she did notice some yard waste in the wetland so she would like to add a condition that landowner discontinue putting yard waste in the wetland.

Commissioner Grobe motions to approve the Emergency Certification and request that the leaf litter is contained and is second by Vice Chairman Murphy. CG-Yes, JM-Yes, TS-Yes, AF-Yes, RF-Yes

7. OTHER ITEMS

Coordinator Borenstein asks how the Commission would like to handle Septic System installation in the Buffer Zone. Vice Chairman Murphy states that both RDA's and Emergency Certificates can be done. Chairman Doe states that it should be taken case by case.

A. Minutes from June 9, 2020

Commissioner Sharp motions to accept the Minutes of June 9, 2020 and is second by Vice Chairman Murphy. CG-Yes, JM-Yes, TS-Yes, AF-Yes, RF-Yes

- B. Coordinator Borenstein states that she has had numerous requests for outdoor seating at the restaurants on Main Street. She states that she has informed the restaurants that as long as seating is temporary and nothing permanent is put in the parking lots that this is acceptable. She states the tables and chairs should be brought in at night that she has stated that this is acceptable. She asks if bringing the seating in at night is overreaching. Vice Chairman Murphy states that at this time, that is not necessary, he also states that they are at their own risk.

Commissioner Sharp asks if the Commission is comfortable with the Coordinator asking any person on site visits to wear masks. The Commission agrees that when Coordinator Borenstein arranges site visits, she should inform applicants and consultants that per State and City guidelines, face masks are to be worn by all attendees.

8. MOTION TO ADJOURN

Commissioner Fagnand motions to adjourn the meeting at 8:27 PM and is second by Vice Chairman Murphy. CG-Yes, JM-Yes, AF-Yes, TS-Yes, RF-Yes

A true record, Attest:
Colleen Fegan-Nunez
Westfield Conservation Administrative Assistant