

Newburyport Conservation Commission
Minutes of the June 2, 2009 Meeting

1. Call to Order

A meeting of the Newburyport Conservation Commission was called to order by Chairman Paul Healy at 7:05 p.m.

2. Roll Call

In attendance were members Paul Healy, Steve Moore, Doug Muir, Joe Teixeira, Mary Casey, Dan Warchol and Jannell Zarba and conservation agent Mary Reilly.

3. Minutes

The minutes of the May 19, 2009 meeting were approved as submitted.

4. Certificates of Compliance, Requests for Determination and Requests for Minor Modifications

PCI Synthesis

9 Opportunity Way

Request for Determination of Applicability

The applicant is proposing to fill cracks and seal a parking lot. No pavement is to be removed. The work is not related to the mineral oil spill that took place on May 13 and will be done after the remediation work and restoration has been completed. Steve Moore moved to issue a Negative 3 Determination with the condition that an all-liquid sock be used as a barrier between the parking lot and the wetlands. Dan Warchol seconded the motion. All voted in favor.

David Sorenson

3 P Street

Request for Minor Modification

DEP File #051-0751

The applicant is requesting to modify an existing Order of Conditions to be allowed to add cedar slats to the lower portion of the structure. Mr. Sorenson said there would be a minimum of three feet between the bottom of the slats and the ground, but in some areas it would be possible to walk under them. Mary Reilly said her impression had been that the bottom of the slats would be high enough to walk under around the entire structure. Lattice or other types of covering is not allowed, but in this case she had thought the slats would be high enough so as not be an issue. DEP had commented that lattice is not allowed no matter how high above grade it might be. Mr. Sorenson said he thought the slats would be 5-6 feet above ground, but the architect indicated on the plans that it would be a minimum of three feet above grade. Mary Reilly said that lattice placed three to five feet above grade is not consistent with what has been allowed in the past. Dan Warchol commented that if lattice is not allowed, it does not matter whether it is three feet or five feet above grade. Joe Teixeira said that a precedent has been set for lattice not being allowed. The applicant also wishes to suspend a storage compartment under the house. The applicant must provide more detail about the compartment. Paul Healy said the matter should be deferred to the next meeting in order that the Commission might consider an action that is consistent with its policies. Continued to June 16.

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5. Public Hearings

Joe Teixeira moved to recess the meeting and open the public hearings. Dan Warchol seconded the motion. All voted in favor.

City of Newburyport

Plum Island Turnpike at Ocean Avenue

Notice of Intent

DEP File #051-0823

The City is proposing to replace two undersized culverts under the Plum Island Turnpike with a larger box culvert that would handle a 100-year flood. A sleeve has been added to reinforce the sewer pipe. The applicant said that it is possible that there could be scouring under the pipe but that it would naturally maintain itself. There was a discrepancy between the Stantec study and the Malcolm Pirnie study. The applicant said it is possible that the Malcolm Pirnie study modeled a different size culvert. A letter from Natural Heritage stated the project will have no adverse impacts. DEP commented that due to the increase in the size of the culvert this does not qualify as a limited project. However, the Commission believes that this is not a substantial enlargement. Replacement in kind would result the same amount of impact but would yield none of the benefits. The project creates a net gain in the amount of saltmarsh and the amount of tidal flow will be increased. Doug Muir moved to recess the public hearing. Steve Moore seconded the motion. All voted in favor.

Warren Russo

182 Northern Boulevard

Notice of Intent

DEP File #051-0824

The applicant is proposing to construct a two-car garage on pilings on a vacant lot. There would be crushed stone between the ramp and the street. Steve Moore said that under a previous Order of Conditions the area was to be planted with 2,200 square feet of beach grass that was to be maintained in perpetuity. The beach grass has not been planted. Mr. Russo said the previous project has not been started but he does not wish to withdraw the filing. Mary Reilly said planting of the beach grass was required to compensate for the removal of material under the deck. DEP has commented that the applicant must comply with any previous filings. Joe Teixeira said that the excavation was done under the deck so that cars might park there, but now the applicant wants to add an additional parking area, resulting in six parking spaces that are all covered to some degree. There is also crushed stone at the front of the property on which cars may be parked. Steve Moore said that the garage and ramp would require the planting of more beach grass and there may not be enough room on the lot for all that would be required. Mr. Russo said he wishes his cars to be out of the weather and that if he cannot build a garage, then he will not plant any beach grass. He was told that he is required to plant the beach grass whether or not he is allowed to build the garage because it was ordered in compensation for the excavation under the deck. Mary Reilly said that although Mr. Russo claims this is a zero-impact project, it is on a coastal dune, which is an important resource area that would be impacted by any type of development. Dan Warchol said that he does not think this could be

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permitted due to the applicant's existing Order of Conditions. Mr. Russo would be required to amend the August 2008 Order of Conditions to plant the beach grass in another location. Paul Healy agreed that the first step would be a plan that would modify the existing order. Eric Weir, 63rd Street, spoke in favor of the project. Continued to June 16.

Kenneth LaBrecque

3 Parker Street

Notice of Intent

DEP File #051-0825

The applicant is proposing to construct a 1,800 square foot structure that would house five apartments. The Notice of Intent states the structure will occupy 2,400 square feet and must be corrected. The building would be located in the buffer zone and is 18' from a wetland flag at its closest point. DEP comments have not been received. A site visit will take place on June 11 at 6:15 p.m. Continued to June 16.

6. Other Business

0 P Street

Informal Presentation of Upcoming Notice of Intent

The plans call for the construction of a single-family house. Steve Moore asked if the applicant would consider moving one corner of the house out of the densely vegetated area. A site visit will take place on June 11 at 7:00 p.m.

7. Enforcement

Kenneth Mitchell

231 Northern Boulevard

At the August 5, 2008 meeting Mr. Mitchell agreed to remove a cinder block retaining wall at the edge of a driveway. He has not done so and wishes to retain the wall, which he says was installed to replace a wall around the property that collapsed during the water and sewer project. Joe Teixeira said that property owners have been allowed to replace structures that were damaged during the water and sewer project. Doug Muir moved that an Enforcement Order not be issued. Steve Moore seconded the motion. All voted in favor.

16 Basin Street

A raised planting bed and a patio have been installed. An Enforcement Order will be issued requiring that these be removed within 90 days.

8. Orders of Conditions

City of Newburyport

Plum Island Turnpike at Ocean Avenue

Notice of Intent

DEP File #051-0823

Doug Muir moved to reopen the public hearing. Steve Moore seconded the motion. All voted in favor. Steve Moore moved to issue an Order of Conditions on the basis that it is a limited project that results in no greater impact to the salt marsh than replacing in kind, with the conditions that a wetland scientist supervises the salt marsh restoration and that it be monitored for three years. Dan Warchol seconded the motion. All voted in favor.

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9. Adjournment

The meeting was adjourned at 10:30 p.m.