

Newburyport Conservation Commission
Minutes of the August 18, 2009 Meeting

1. Call to Order

A meeting of the Newburyport Conservation Commission was called to order by Chairman Joe Teixeira at 7:05 p.m. Before beginning the meeting he announced that he has received a letter from MACC stating that Jannell Zarba has completed her conservation commission training.

2. Roll Call

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

3. Minutes

The minutes of the August 4, 2009 meeting were approved as submitted.

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

Massachusetts Audubon Society

1 Plum Island Turnpike

Request for Determination of Applicability

Doug Muir recused himself from the discussion. Bill Gette described plans to install a water catchment system at the Joppa Flats Education Center. The system will collect water from the roof of the building to be used in toilets. Other systems already in place collect water for other uses. The goal is that most of the water used at the facility will be collected on site. Gutters on two sides of the building will carry water to the west side where it will be held in an underground tank. The excavation will not disturb any trees and is to take place in a grassy area where there will be minimal disruption to the site. The plans do not make any provisions for erosion control. Paul Healy moved to issue a Negative 2 Determination with the conditions that a tarp is used to cover the excavated material, that straw is used to cover the area until the vegetation takes hold and that hay bales are used to separate the work area from the coastal bank during construction. Steve Moore seconded the motion. The motion passed with one abstention.

Jim Miller

9 Basin Street

Request for Certificate of Compliance

DEP File #051-0767

The applicant requested a continuance to September 1.

Katy Dirks

8 57th Street

Request for Certificate of Compliance

DEP File #051-0792

Mary Reilly had previously visited the site and found that everything was in compliance but that the beach grass and other plantings had not yet been installed. The plantings has now been completed. The location of the walkways is slightly different from what was approved but the

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walkways now cover less area. Mary Casey moved to issue a Certificate of Compliance. Doug Muir seconded the motion. All voted in favor.

5. Public Hearings

Paul Healy moved to recess the meeting and open the public hearings. Steve Moore seconded the motion. All voted in favor.

Terry Jones, Weeping Willow Realty Trust

7 Graf Road

Notice of Intent

DEP File #051-0802

Lisa Mead appeared for the applicant. A revised Notice of Intent has been submitted to reflect the reduction in the size of the building to 13,000 square feet and the change to a porous material for parking area in order to reduce the amount of storm water storage needed. The project now impacts 13,855 square feet of wetlands. In response to the recommendation by Tom Hughes that quality rather than quantity be the guide for the restoration, the applicant has changed the plans to improve the quality of the wetlands. A portion of the replication area has been removed and the ratio has been subsequently been reduced from 1.5 to 1 to 1.2 to 1. Changes include the addition of a constructed wetland in the area of the detention basin and the removal of some of the retaining walls and their replacement by rip-rap. The change to rip rap has resulted in the slight increase in the amount of impact. It is possible that a small amount more of the retaining wall might be removed, but the walls are needed in order to be able to provide the replication area. Two grassy areas for habitat have been added along the rear rip-rap. There will be a deep-water pool to enhance the habitat provided. Invasive species will be removed by excavation and will be replaced by a mix of grasses and shrubs. The selection of plants materials has been based on their value as a habitat for birds and small mammals. Tom Hughes recommended that there be annual cutting to maintain the area as a wet meadow. Bill Decie said the applicant would not be opposed to this being made a condition. Some recommendations by Tom Hughes were not received in time to be considered for this meeting and will be addressed at the September 15 meeting. One of these is the planting of additional vegetation in select areas along the rip rap. The recommendation will be presented to the property owner. The applicant should expect there to be a condition that a log for storm condition controls be submitted on an annual basis. Joe Teixeira said that as only four members of the Commission are eligible to vote on the project, their decision would have to be unanimous. Paul Healy moved to continue the hearing to September 15. Dan Warchol seconded the motion. All voted in favor.

Janalyn DeSantis

21 LaValley Lane

Notice of Intent

DEP File #051-0833

The applicant is proposing to remove 6" of clay from a backyard and replace it with 4" of sand and 4" of sandy loam. The property borders a wetland and the backyard is often wet and difficult to mow. DEP did not have any comments. The members of the Commission were concerned that the applicant's proposed solution might not be effective. Mary Reilly proposed the installation of a rain garden as an alternative. The applicant was not interested in the rain garden concept, but is willing to try a solution that is less complex than the one originally

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proposed. The planned excavation will not take place, but instead the applicant will re-grade only with materials already on the site. Joe Teixeira suggested planting trees, such as red maples, whose roots would absorb much of the water. Some erosion control might be needed in the disturbed area to prevent material from entering the wetland while the work is being done. The members of the Commission discussed with the applicant the possibility of withdrawing the Notice of Intent and filing a Request for Determination of Applicability in its place, but the applicant decided to continue with the Notice of Intent. Doug Muir moved to close the public hearing. Paul Healy seconded the motion. All voted in favor.

Frank McDermott

1 P Street

Request to Amend an Order of Conditions

DEP File #051-0826

Paul Healy recused himself from the discussion. The plans that were approved under the Order of Conditions have been amended in response to comments made by DEP. Bill Decie presented the requested changes. The utility shaft will be reduced in size from 10' x 10' to 3' x 3', the ten sonotubes have been deleted from the plans, the number of H-piles has been increased from 12 to 16 and pea stone walkways will replace the wooden roll up ones that had been previously planned. Mary Reilly said that DEP has subsequently decided that utility shafts may be 3.5' x 3.5'. Doug Muir moved to close the public hearing. Dan Warchol seconded the motion. All voted in favor.

Steve Moore moved to close the public hearings. Mary Casey seconded the motion. All voted in favor.

6. Enforcement

Carla and Robert Moore

16 Basin Street

Mary Reilly reported that the property owners have apparently decided to remove both the pavers and the retaining wall and the work would be done under the Enforcement Order. The front six feet of the house are on pilings. The solid foundation is not under the entire structure as had been implied at the August 4 meeting.

7. Orders of Conditions

Janalyn DeSantis

21 LaValley Lane

Notice of Intent

DEP File #051-0833

Paul Healy moved to issue an Order of Conditions with the special conditions that: 1) the proposed excavation will not take place, 2) Mary Reilly will visit the site before any work may begin, 3) erosion control will be used if it appears that any exposed soil might run into wetland area, 4) any trees to be planted will be of a water-tolerant species such as red osier dogwood, black willow or red maple and 5) straw will be used to stabilize the area if it is not immediately reseeded. Doug Muir seconded the motion. All voted in favor.

Frank McDermott

1 P Street

Request to Amend an Order of Conditions

DEP File #051-0826

Dan Warchol moved to issue an Amended Order of Conditions with the reference to the plans of record being changed and the addition to the plans of lattice panels that end at least three feet above grade. Steve Moore seconded the motion. All voted in favor.

8. Other Business

Some members of the Commission were absent for meetings during which 7 Graf Road was discussed and would not be able to vote on the project. The Commission has adopted a policy that a member may vote on an application after missing a meeting if a recording of the meeting is reviewed. Mary Reilly discussed with the applicant the possibility of reopening the hearing in order to involve more members of the Commission in the vote, but the applicant decided against this course of action.

Joe Teixeira said he is able to obtain posters for \$33 each. Two posters will be obtained that describe the Commission's mandate and meeting procedures.

9. Adjournment

The meeting was adjourned at 9:45 p.m.