

Newburyport Conservation Commission
April 3, 2018
Senior Community Center, 331 High Street
Minutes

1. Call to Order

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:47 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Steve Moore, David Vine, Paul Healy, Dan Warchol and Doug Muir. Dan Bourdeau was absent. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Steve Moore moved to approve the minutes of the March 20, 2018, meeting as submitted. Paul Healy seconded the motion. The motion was unanimously approved.

4. Old and New Business

Plum Island Updates

Julia Godtfredsen said a permit has been issued to remove accumulated sand from the Captain's Fishing Parties beach and parking area. The design has been approved for the berm that is to be created along Reservation Terrace with this sand. Because the GZA plan calls for more sand than is available from the site, residents of the neighborhood have raised money to purchase additional sand. Beach grass has been ordered and will be planted as soon as the sand is in place. The work, which is to begin immediately, is subject to a time of year restriction and therefore a plover monitor will be present on the site.

Newburyport Brewing Company

Informal Discussion

Eric Botterman said the brewery is planning to relocate to 79 Parker Street, where its operations could be expanded and a restaurant added. Plans include walking trails with educational signage about plants and wildlife. In some areas the work comes close to, but does not intrude into, the 25-foot no-disturb zone. Because approximately 40% of the buffer zone would be impacted a variance would be needed. The Zoning Board must also issue a variance for the number of parking spaces needed. A requirement for parking beyond that which has been proposed could result in further impacts to the resource area. The applicant intends to argue the restoration of the historic farmhouse would constitute a public benefit. The Commission members asked for information on plans to mitigate the buffer zone impacts, which the applicant was not able to provide at this time.

5. Certificates of Compliance, Requests for Determinations, Requests for Minor Modifications

Elizabeth Gemba

11 69th Street

Request for Determination of Applicability

The applicant submitted an appraisal indicating the proposal would increase the value of the home from \$400,000 to \$515,000. The work would therefore not constitute a substantial improvement and the applicant would not be required to elevate the structure on pilings. While the applicant additionally submitted a letter from a structural engineer stating the existing foundation would be able to support the increased load, this aspect of the project is outside of the Commission's purview because the work does not constitute a substantial improvement. There are no plans to change the vegetation on the site. Steve Moore moved to issue a Negative 3 Determination with the condition the applicant shall replace any vegetation disturbed during construction and shall submit plans for any additional work to the Commission for review and approval. Doug Muir seconded the motion. The motion was unanimously approved.

Steve Moore moved to open the public hearings. Doug Muir seconded the motion. The motion was unanimously approved.

Joe Teixeira and Kim Kudym

44 Hale Street

Request for Determination of Applicability

Joe Teixeira recused himself from the discussion. Tracy Peter described the plan to install a generator within the 25-foot no-disturb zone. Two propane tanks would be installed on a 3' x 6' concrete pad at a distance of 12 feet from the edge of the wetland. The generator would be installed on a 3' x 5' concrete pad at a distance of 20 feet from the edge of the wetland. Trenches for electrical and propane lines would run between the propane tanks and the generator and the generator and electrical box. The soil would be dug by hand and removed from the site. The trenches would be backfilled and the disturbed area immediately replanted. The work meets the criteria for an exemption, as it is an accessory structure associated with a single-family home where no reasonable alternative exists. Paul Healy moved to issue a Negative 2 Determination. Doug Muir seconded the motion. The motion was unanimously approved.

Daly Realty Trust

166 Northern Boulevard

Request for Certificate of Compliance

DEP File #051-0919

The applicant has requested a partial Certificate of Compliance in order to receive an occupancy permit. The Order of Conditions required that site be 100% vegetated and the plantings be monitored for two growing seasons. The planting has not yet been done. If not completed by mid May it would be necessary to delay the work until the fall. The applicant will be asked to attend the next meeting. Doug Muir moved to continue the request to the April 17 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

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David Vine moved to open the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

6. Public Hearings

Lisa Cosimano Gallagher, Port City Realty, LLC

75 Parker Street

Notice of Intent

DEP File #051-0988

The applicant requested an extension. The proposal is scheduled to be on the Planning Board agenda for May 2. Paul Healy moved to continue the public hearing to the May 15 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Lauren Palmero

245 Northern Boulevard

Notice of Intent

DEP File #051-0990

The applicant is proposing to construct a single-family home on a vacant lot in the AO zone, where the local ordinance prohibits development or redevelopment. The property was once the location of the Oliver House. The former property owner received an Order of Conditions to rehabilitate the Oliver House and construct a new structure at the rear of the property. The Building Department subsequently deemed the Oliver House unsafe and informed the property owner a demolition order would be issued. The property owner demolished the structure before the order was issued and later requested Certificate of Compliance, which was issued in 2009.

The applicant has filed a Notice of Intent for a single-family home with a footprint smaller than that of the Oliver House. A clamshell parking area and patio would be installed. Clean sand would be brought in to fill a depression left after the demolition of the Oliver House. The amount of planting on the site would be increased 600 square feet. The applicant proposed for the siding on the structure to be 2.25 feet above grade but agreed to maintain at least 2.5 feet of clearance.

Lisa Mead and Tom Hughes represented the applicant and presented a request for a variance from the local ordinance. They said there are no alternatives to the proposal. The restoration of dune function though the addition of sand and plantings would constitute a public benefit. They also argued it would be in the interest of the public to allow an owner to rebuild a structure for which the Building Department indicated a demolition order would be issued.

A list was presented of the ways in which the site varies from 5 75th Street, also in the AO zone, where the Commission recently denied a request to construct a single-family home. The property at 245 Northern Boulevard has been treated as a buildable lot with regards to assessments. Water and sewer hook-ups exist and the property owner has been paying the sewer betterment fee. A house existed on the site until 2013, while no structure has existed at 5 75th Street since 1924. In addition a variance was not requested for 5 75th Street.

Doug Muir move to issued a variance. Steve Moore seconded the motion. The motion was unanimously approved. Dan Warchol moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

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John D. Galligan, Bradford & Bigelow Realty, LLC

3 Perkins Way

Notice of Intent

Tom Hughes and Steve Sawyer described the plans to construct two additions to allow for the expansion of a printing business. On one end of the existing structure a small addition would house a new 129-foot printing press. This addition would intrude into the 25-foot no-disturb zone and a variance would be required. At the opposite end of the structure a large addition would provide increased warehouse space. The applicant is proposing several measures for mitigation. The elevation of an area adjacent to an existing swale would be lowered to create more flood storage. Currently stormwater flows directly into the swale with no treatment. A trench with a stone diaphragm and five rain gardens are being proposed to treat the water before it enters the swale. The applicant intends to plant 12 saplings. The location of these trees would be determined after the Commission members have visited the site. Solar panels are to be installed on a portion of the roof. The applicant is proposing to construct a green roof on the addition in order to provide a public benefit. It was suggested a video of the installation of the green roof and solar panels be created for use by high school classes.

The corners of the additions will be staked for a site visit that will take place on Thursday, April 12 at 4:45 p.m. Steve Moore moved to continue the public hearing to the April 17 meeting. Doug Muir seconded the motion. The motion was unanimously approved.

Steve Moore moved to close the public hearings. David Vine seconded the motion. The motion was unanimously approved.

7. Enforcement

None

8. Order of Conditions

Lauren Palmero

245 Northern Boulevard

DEP File #051-0990

Doug Muir moved to issue an Order of Conditions with the special conditions the lowest horizontal structural member shall be at least 2.5 feet above grade in all locations; no siding or lattice shall enclose the area beneath the stairs; the entire site outside of the building footprint and parking area shall be fully vegetated with American beach grass that has been planted one foot on center; only clean, beach-grade sand shall be added to the site; the measured final elevations shall be as shown on the approved plans; and the accepted criteria for the issuance of a variance shall be as outlined in the letter dated March 26, 2018 from Mead, Talerman and Costa, which includes as the public benefit the addition of sand that will be used to elevate the depression on the site to the surrounding grade and nourish the dune. Dan Warchol seconded the motion. The motion was unanimously approved.

9. Adjournment

Steve Moore moved to adjourn the meeting at 8:45 p.m. Joe Teixeira seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will take place on Tuesday, April 17, 2018.