

Newburyport Conservation Commission

April 4, 2017

Senior/Community Center Board Room

Minutes

1. Call to Order

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

2. Roll Call

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

3. Minutes

Paul Healy moved to approve the minutes of the March 21, 2017 meeting as submitted. Dan Bourdeau seconded the motion. The motion was approved with Steve Moore abstaining.

4. Plum Island Updates

- A meeting of the Merrimack River Beach Alliance took place on Friday, March 24. One topic of discussion was the potential reuse of material from the dredging of the mouth of the Piscataqua River. The material would be glacial till, which would require it to be placed off shore. Sand from the Merrimack River could be more compatible and could be placed on the beach but there are currently no plans to dredge the Merrimack.
- A meeting to discuss which beach accessways should remain open has been tentatively scheduled for the beginning of May.

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

Curtis Young, Wetlands Preservation

251 Low Street

Request for ORAD Extension

Curt Young represented the applicant. An ORAD was issued for the site, which was a cornfield, in 2014. The project planned for the property at that time fell through and new plans are now being considered. The delineation done in 2013 was based solely on soils due to the alteration of the vegetation. There has been no change in the hydrology of the area or to the site since that time. Steve Moore moved to issue a three-year extension to the ORAD. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Mark and Linda Wahlgren

1 Spofford Street

Request for Certificates of Compliance

DEP File #051-0285 and 051-0286

Orders of Conditions were issued for a single-family house and a dock in 1992. Information is missing from the files, including the plans. Julie Godtfredsen visited the site and reported it is in good condition. She said the house is located well above the river. There is no erosion on the

Newburyport Conservation Commission
April 4, 2017

slope and the property is well vegetated, with mature trees growing along the bank of the river. Paul Healy moved to issue a Certificate of Compliance for DEP File #051-0286. David Vine seconded the motion. The motion was unanimously approved. Paul Healy moved to issue a Certificate of Compliance for DEP File #051-0285. Dan Bourdeau seconded the motion. The motion was unanimously approved.

6. Public Hearings

Steve Moore moved to open the public hearings. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Howard and Dorothy Fairweather

3-5 Collins Farm Road

Notice of Intent

DEP File #051-0968

Curt Young represented the applicants, who have acquired two lots totaling 4.3 acres and are proposing to construct a 1,900 square foot, single-family home with a teahouse and garage. The 200-foot riverfront area extends into the property. The garage would be outside of this area and therefore the Commission would not have jurisdiction over it. Roof runoff would be collected in an infiltration trench and would be piped to a portion of the site with good drainage. The teahouse would be constructed on sonotubes. The house, teahouse and associated landscaping would alter 8,600 square feet of riverfront area and 20 trees would be removed. Mr. Young said the lot to be developed could be divided into four house lots under the City's zoning regulations. The second lot, which is to remain undeveloped, could be divided into five lots. He said the project would impact .8 acres. A conservation restriction would be placed on the remaining 3.5 acres, offering protection to property high in habitat value.

Joe Teixeira opened the hearing to comments from the public. Mike and Pam Jacobs, 1 Collins Farm Road, said the project would have much less impact than potential alternatives. Chuck Lagasse, 1 Pipers Quarry, said he sold the property to the applicants and owns the adjacent 28 acres. He said zoning would permit the construction of many houses on small lots, while the applicants are proposing to construct just one.

A site visit will take place on Tuesday, April 11, at 4:30 p.m. The Commission members requested the corners of the house and teahouse be staked and the trees to be removed marked. Steve Moore moved to continue the public hearing to the April 18 meeting. David Vine seconded the motion. The motion was unanimously approved.

Newburyport Manager, LLC

72, 86-90 Merrimac Street, 58 McKay's Wharf, and Brown's Wharf

Notice of Intent

DEP File #051-0969

Katie Barnicle represented the applicant, who is proposing to construct an interim walkway between Michael's Harborside and the Black Cow. The walkway is a condition of the Chapter 91 license for Michael's Harborside. The 8-foot wide walkway would be of bituminous pavement and concrete. Bollards would be used to protect pedestrians from vehicles. Benches, planters and signage would be a part of the project. A small area of vegetation near Michael's

Newburyport Conservation Commission
April 4, 2017

Harborside would be removed. The applicant is requesting a variance from the local ordinance for construction within 25 feet of the river. The site is a disturbed one.

The application also includes the repair of a collapsed stormwater pipe. This work would be exempt from the local ordinance as it involves the repair or maintenance of a stormwater management feature. The Commission members had concerns about this aspect of the project, however, because it is associated with a direct impact to the saltmarsh and it could provide an opportunity to improve the quality of the water flowing into the river.

Joe Teixeira opened the hearing to comments from the public. Tom Hughes suggested the Commission might wish to require a peer review. He said the project might provide an opportunity to improve the way in which stormwater is handled on the waterfront. Lisa Mead pointed out the project has been labeled as redevelopment in the filing and called attention to the inclusion in the plan of a 24" stub for a future connection. Brett Lafebvre and Michael Lambert of Horton's Yard both expressed their concern that the project is the first step in the development of waterfront west. David Powell, 3 Salem Street, questioned the work being tied to the Chapter 91 license for Michael's Harborside when only a very small part of the walkway covers that property.

The Commission members requested the applicant extract the construction sequence from the plans. They wish to receive figures on the amount of impact to the saltmarsh, a cross section of the riprap associated with the pipe and a detail on the outflow. They discussed the methods by which phragmites might be removed from the BVW. The applicant would be required to submit a management plan for the work.

A site visit will take place on Tuesday, April 11 at 5:30 p.m. The applicant will stake the location of the walkway near the wetlands. Dan Bourdeau moved to continue the public hearing to the April 18 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Thomas Lawrence

17 82nd Street

Notice of Intent

DEP File #051-0971

David Vine recused himself from the discussion. Tom Hughes represented the applicant, who constructed a deck without a permit. He said he created a pre-existing conditions plan using the concrete under the existing deck to determine the location of the deck the prior owner had removed. He estimated the old deck was 114 square feet in size and the amount of impact from the new deck is 114 square feet. The amount of clearance under the existing deck ranges from 18" to 24" except in the area where loam from the sewer project was placed to create a planting bed. Due to the flood elevation in this area, a first-floor deck would be prohibited by the regulations. Mr. Hughes is requesting a waiver from the standards. In exchange he would improve the function of 456 square feet of dune by removing the concrete. Beach grass would be planted in a 290 square foot area and 166 square feet of clamshell would be added for a walkway.

Joe Teixeira pointed out that previous applicants have been required to step up from the house to the deck in order to achieve the required two feet above grade. He said the proposal would mostly benefit the homeowner and he would prefer beach nourishment as remediation, which would provide a greater benefit to the public. The applicant must submit a written

Newburyport Conservation Commission
April 4, 2017

request for a variance. A site visit will take place on Monday, April 10 at 4:30 p.m. Steve Moore moved to continue the public hearing to the April 18 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Lisa Mead requested that the accumulation of fines be stopped and the fines that have accrued be waived. She said Mr. Lawrence acted in accordance with the interpretation of the building code the Building Commission had at the time. The request will not be considered until the project has been resolved.

George Charos

Merrimack River in front of 82nd Street

Notice of Intent

DEP File #051-0970

Tom Hughes represented the applicant. Sand has been accumulating along the bank of the Merrimack River, interfering with the applicant's ability to navigate his boats. He had previously relocated his docks to avoid the shoaling, but is not able to extend them any further into the river. The Commission issued an Emergency Certification for dredging in this area last spring. The applicant is proposing a ten-year maintenance-dredging plan. The material would be pumped from a barge onto the beach, where it would be dewatered and stockpiled for potential use on the beach. He is seeking approval for the dredge footprint, two dewatering areas and the stockpile area. While the applicant hopes to begin the work this spring, DEP wishes to impose a time of year restriction on the project, requiring the work to take place between November and March. The Army Corp. of Engineers, Natural Heritage and CZM must also permit the project. The applicant expects to receive a letter from Natural Heritage by the next meeting. Steve Moore moved to continue the public hearing to the April 18 meeting. David Vine seconded the motion. The motion was unanimously approved.

Gary Litchfield, C&L Homes, LLC

1 G Street

Notice of Intent

DEP File #051-0966

Tom Hughes represented the applicant and submitted a revised landscaping plan that includes the installation of eight trees and 21 shrubs. The Order of Conditions will require that 26 of these plant materials survive two growing seasons. All areas outside the building envelope and driveway shall be vegetated upon completion of construction. The plans were also amended to include the limit of work, the relocation of the sewer vent and the addition of a split rail fence to prevent disturbance to the vegetated area. David Vine moved to close the public hearing. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Steve Moore moved to close the public hearing portion of the meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission
April 4, 2017

7. Orders of Conditions

Gary Litchfield, C&L Homes, LLC

1 G Street

DEP File #051-0966

Doug Muir moved to issue an Order of Conditions with the special conditions Julia Godtfredsen distributed for review. Paul Healy seconded the motion. The motion was unanimously approved.

8. Adjournment

Steve Moore moved to adjourn the meeting at 10:50 p.m. Dan Bourdeau seconded the motion. The motion was unanimously approved.