

Newburyport Conservation Commission
July 18, 2017
First Floor Meeting Room
Senior Community Center, 331 High Street
Minutes

1. Call to Order

Vice Chair Steve Moore called a meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

2. Roll Call

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

3. Minutes

Dan Bourdeau moved to approve the minutes of the June 6, 2017 meeting as amended. Steve Moore seconded the motion. The motion was unanimously approved.

4. Old and New Business

None

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

Barbarajean Magnani

160 Old Point Road

Request for Certificate of Compliance

DEP File #051-0884

Tom Hughes represented the applicant, who is requesting a Certificate of Compliance for three decks. While the decks were constructed according to the plans submitted to the Building Department, they are 200 square feet larger than were shown on the plan the Conservation Commission approved. The applicant did not seek approval for the modified plans. Mr. Hughes said the amount of mitigation on the site is adequate to compensate for the additional square footage of the decks because not all of the elements of the proposed plan were installed. The decks are of a sufficient elevation to allow beach grass to grow under them. The Commission members discussed the lack of proper procedure but concluded the decks are in compliance with the local ordinance and would have been approved if the current configuration had been presented. Doug Muir moved to issue a Certificate of Compliance. Dan Bourdeau seconded the motion. The motion was unanimously approved.

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HMBF05 Newburyport MA LLC

2 Opportunity Way

Request for Certificate of Compliance

DEP File #051-0836

Tom Hughes represented the applicant, who did not begin the work approved under the Order of Conditions. The Order was issued in 2010 and has expired. Paul Healy moved to issue a Certificate of Compliance on the basis no work was done. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Jack and Jane Fantry

194 Northern Boulevard

Request for Determination of Applicability

Tom Hughes represented the applicant, who replaced the decking and siding of a non-compliant existing deck without a permit. The deck was made smaller and a fence around it was removed. Dan Warchol moved to issue a Negative 3 Determination with the condition the deck may not be enclosed or further modified without the permission of the Commission. Dan Bourdeau seconded the motion. The motion was unanimously approved.

6. Public Hearings

Dan Warchol moved to open the public hearings. Paul Healy seconded the motion. The motion was unanimously approved.

Ron Guertin

1 Spofford Street

Notice of Intent

DEP File #051-0975

Bill Decie represented the applicant. The erosion control was added to the plan, as the Commission requested at the June 20 meeting. There will be no staging area. Doug Muir moved to close the public hearing. Dan Bourdeau seconded the motion. The motion was unanimously approved.

One Boston Way, LLC

1 Boston Way

Amend Order of Conditions

DEP File #051-0952

Ann Martin and Scott Cameron represented the applicant. In May 2016 the Commission issued an Order of Conditions for the redevelopment of the MBTA parking lot. The special permit issued by the Planning Board was appealed and the plans were changed as a part of a settlement agreement. In the revised plans the amount of impact would be reduced. There would be fewer units and parking spaces. The building would be moved further away from Parker Street, but not closer to the wetland. Its height would be reduced and the first floor would be raised to six feet above the FEMA flood elevation. There would be no substantial change to the proposed grading. A constructed stormwater wetland would replace the cascading rain garden that had previously been proposed. The elimination of a sidewalk, loading area and two parking spaces would lessen the amount of pavement by 2,000 square feet. New to the plans is the replacement

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of a crushed culvert with a 24-inch pipe. A water quality unit would be added at the end of the pipe to treat both on and off site runoff. A line depicting the edge of the buffer zone was deleted from the plan because it was related to the stormwater swales that are not considered to be jurisdictional. Paul Healy moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

Hooks Johnston

15 and 16 Gloria Street

Notice of Intent

DEP File #051-0974

The applicant requested a continuance. David Vine moved to continue the public hearing to the August 1 meeting. Paul Healy seconded the motion. The motion was unanimously approved.

Evergreen Commons

5 Brown Avenue and 18 Boyd Drive

Notice of Intent

DEP File #051-0973

Lisa Mead, Tom Hughes, Steve Sawyer and Jay Billings represented the applicant, who has received an OSRD special permit from the Planning Board for the construction of a 38-unit housing development. The Commission received copies of the documents relating to the special permit decision and the definitive subdivision review. The Planning Board has requested a representative of the Conservation Commission attend its August 16 meeting.

Based on comments made at the June 20 meeting, a clay liner was added to the constructed stormwater wetland. A change was made to the way in which the elevation of the bottom of the ILSF was determined. It is now being based on test pit averages rather than observations and was lowered as a result.

The applicant's representatives provided information on the soil groupings, seasonal high water, the ILSF stormwater calculation and the number of homes that drain onto Boyd Drive. They reviewed their responses to DEP comments and presented a plan showing the way in which the development would be configured if a variance were not obtained. They argued the development would be an improvement over the existing conditions. The amount of open space would be 3% above the 60% the regulations require. The upland ratio would be 5% above the minimum required amount.

Jay Billings made a lengthy presentation on the chemicals the golf course has recently purchased. He argued the project would eliminate potential sources of contamination in the Zone 2 recharge area because the amount of treatment would be less for residences than a golf course. The lack of chemicals in the water samples is inconclusive. It is not known if the chemicals were not applied or if they are in the ground water but are not reaching the wells. The results have not yet been received from the AECOM soil analysis.

The meeting was opened to comments from the public. Robert Mazzotti, 8 Brown Avenue, reiterated the concerns he expressed at the June 20 meeting. He said he is concerned about the policing of the public use of the open space and the efficacy of the homeowner's association. He said the water is currently pure and fears the construction would jeopardize this. He is also concerned the habitat would be negatively impacted during construction.

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Julia Godtfredsen provided a draft scope of work for the peer review. Attorney Mead was concerned about the work of Christensen and Sergi being unnecessarily duplicated. She presented her revision to the proposed scope of work and asked that a representative of Christensen and Sergi present the results of the Planning Board's peer review at an upcoming meeting. Julia Godtfredsen will review the scope of work for Christensen and Sergi and will eliminate any duplication from the Conservation Commission's scope of work.

Doug Muir moved to continue the public hearing to the August 1 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

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

7. Orders of Conditions

Ron Guertin

1 Spofford Street

Notice of Intent

DEP File #051-0975

Paul Healy moved to issue an Order of Conditions for 1 Spofford Street with the special condition there be no staging area. Dan Bourdeau seconded the motion. The motion was unanimously approved.

One Boston Way, LLC

1 Boston Way

Amend Order of Conditions

DEP File #051-0952

Dan Bourdeau moved to issue an Amended Order of Conditions for 1 Boston Way. Doug Muir seconded the motion. The motion was unanimously approved.

8. Enforcement

7 67th Street

A driveway and retaining wall were constructed on the property without a permit and work on a patio is in progress. Julia Godtfredsen spoke with the property owner, who then stopped the work. An Order of Conditions for work that included a driveway had been issued in 2007. DEP issued a Superseding Order of Conditions at that time. The current work must be taken as a new project. A Notice of Violation will be issued.

25 Basin Street

Landscaping work has been done on the property without a permit that includes grading and the addition of loam, granite curbing, walkways and a solid fence. An Enforcement Order will be issued.

9. Adjournment

Paul Healy moved to adjourn the meeting at 10:15 p.m. David Vine seconded the motion. The motion was unanimously approved.