

Newburyport Conservation Commission

July 5, 2011

City Council Chambers

Minutes

1. Call to Order

A meeting of the Newburyport Conservation Commission was called to order by Chairman Joe Teixeira at 6:30 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Paul Healy, Steve Moore, Doug Muir and Dan Warchol, and Planning Director Andy Port.

3. Minutes

The approval of the minutes of the June 28 meeting was deferred.

4. General Business

Informal Discussion on Sumac Removal at 12 K Street

Michael and Noreen Pollard, 8 K Street, have asked their neighbor at 12 K Street if he would allow them to remove the sumac on his property. Joe Teixeira explained that the property owner must sign the application. Mr. and Mrs. Pollard would be able to act as his representative. Steve Moore said sumac is a native species and is not invasive. The application must include a plan for the replacement of the sumac with another native species. Bayberry, beach plum or low-growing pines were suggested. There is existing lawn on the property, which may not be extended into the area from which the sumac is to be removed.

Informal Discussion on Beaver Dam at 13 Doe Run Drive

Joe Teixeira recused himself from the discussion. Beavers have constructed a six-foot dam between 13 Doe Run Drive and 11 Doe Run Drive. In order for the dam to be disturbed, it must be determined that it poses a threat to health or safety. Andy Port will visit the site with the Health Director. The Mass. Department of Health or the Department of Fisheries and Wildlife might also be consulted. The applicant would be required to file a Notice of Intent for the work. The work might be performed under an Emergency Certification if the dam were determined to be a health hazard.

Plum Island ACO

Joe Teixeira said that as of July 1 the City is in violation of the Plum Island ACO. The ACO requires that a Conservation Agent working a minimum of 20 hours per week enforce the ordinance. Andy Port said he was told that the requirement is obsolete. Joe Teixeira said there is no sunset provision in the ACO and a written agreement between the City and DEP is required to change any of the provisions of the ACO.

Beach Access

Joe Teixeira said the Commission has requested a written response from NHESP regarding the construction of the 55th Street beach access structure during Piping Plover season.

New Ordinance and Regulations

A meeting to review the draft ordinance will take place on July 14 at 7:30 p.m.

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

Janalyn Paige Defantis

21 Lavalley Lane

Request for Certificate of Compliance

DEP File #051-0833

The applicant re-graded the property and planted trees. Andy Port said it appeared the work was done according to the plan. Dan Warchol moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

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

6. Public Hearings

Scott Kinter

1 Lancaster Road

Notice of Intent

DEP File #051-0870

Maureen Hanley appeared for the applicant, who is proposing to construct a single-family dwelling with a garage, porch and patio with the 100-foot buffer zone to a BVW. There is a perennial stream at the rear of the property, which the applicant is claiming is intermittent. Photographs were submitted showing the streambed was dry for four consecutive days during June 2011. Steve Moore commented that while the photographs were taken in June, the data presented was collected in April. He said he believes the stream flows all year. A site visit will take place on Monday, July 11. The applicant is to flag the corners of the house and patio for the site visit. Steve Moore moved to continue the public hearing to July 19. Dan Warchol seconded the motion. The motion was unanimously approved.

Robert and Karla Moore

16 Basin Street

Notice of Intent

The applicants have requested an extension. Paul Healy moved to continue the public hearing to July 19. Steve Moore seconded the motion. The motion was unanimously approved.

Michael Arcidi, Port Associates Limited Partnership

4-6 Hale Street

Notice of Intent

DEP File #051-0867

Tom Hughes appeared for the applicant and presented changes to the plans that were made based on DEP and Commission comments. Mr. Hughes said Marc Jacobs found some of the wetland flags could be changed, although this would not have an impact on the project. The location of a wall of the building was moved, decreasing the wetland impact from 1,293 to 262 square feet.

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Mr. Hughes addressed the DEP comments. He said the wetland restoration area was removed from the plan, which eliminated the requirement for a MEPA and Army Corp. review. He said the only way the rear of the building could be accessed was by a crossing of the wetland and argued that a reduction in the scale of the project would negatively impact the quality of care for the residents. The plan for controlling the reed canary grass was removed from the project. The wetland restoration is being omitted but a 2:1 wetland replication will mitigate the impacts of the project. Steve Sawyer reviewed the comments by Christensen and Sergi and DEP. He said he resubmitted the storm water calculations based on the comments. The quality of the water was improved by the addition of a two-foot wide peastone diaphragm strip with a wider grass strip filter and peastone check dam in the corner of the parking lot by Hale and Low Streets. Mr. Sawyer said flood storage is being provided and the peak flow rate is being reduced by 20%, leading to a net change that would be beneficial to the neighborhood by reducing flooding. The O & M manual must be amended according to DEP comments. Joe Teixeira opened the hearing to public comment. Cynthia Welch-Philippino, 14 Coltin Drive, said she is opposed to the project and the building does not work with the topography of the land. She said she thinks the autumn olive is a barrier for runoff. Mr. Hughes disagreed and described the plan to control the invasive species, which would allow the native species to establish themselves on the site. Mr. Hughes asked that the public hearing be continued and that Andy Port begin work on the draft Order of Conditions in order that it might be reviewed at the next meeting. Paul Healy moved to continue the public hearing to July 19. Dan Warchol seconded the motion. The motion was unanimously approved.

Marc Emmons

9 Doe Run Drive

Notice of Intent

DEP File #051-0869

Joe Teixeira recused himself from the discussion. The applicant did not attend the meeting. Paul Healy moved to continue the public hearing to July 19. Dan Warchol seconded the motion. The motion was unanimously approved.

Paul Healy moved to close the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

7. Enforcement

None

8. Orders of Conditions

None

9. Other Business

10 Perry Way

Andy Port said plans to convert a paved area into a loading dock would be on the agenda for the next meeting. The applicant was instructed to file an RDA that includes plans for erosion control.

16 Basin Street

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Steve Moore said he believes more beach grass must be replicated and there is not enough space on the site.

Administrative Assistance

Dan Warchol asked if funds could be used to hire an administrative assistant. Joe Teixeira said he thinks this would be acceptable as the applicants pay a filing fee to have their permits reviewed. He asked Andy Port to provide a job description. Dan Warchol suggested that the assistant might advocate for the approval of the ordinance.

10. Adjournment

Steve Moore moved to adjourn the meeting at 8:45 p.m. Doug Muir seconded the motion. The motion was unanimously approved.