

Newburyport Conservation Commission

August 19, 2014

City Council Chambers

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 Joe Teixeira, Paul Healy, Doug Muir, Dan Warchol and Jim O'Brien.

3. Minutes

Paul Healy moved to approve the minutes of the July 1, 2014 meeting as submitted. Jim O'Brien seconded the motion. The motion was unanimously approved.

Doug Muir moved to approve the minutes of the July 15, 2014 meeting as submitted. Dan Warchol seconded the motion. The motion was unanimously approved.

Paul Healy moved to approve the minutes of the August 5, 2014 meeting as amended. Jim O'Brien seconded the motion. The motion was unanimously approved.

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

Eivind and Mary Lange

230 Northern Boulevard

DEP File #051-0879

Request for Minor Modification

Tom Hughes appeared for the applicants, who wish to install a fence that would be a minimum of 80% open, exclusive of the posts. The new fence would extend around the majority of the perimeter of the property. An existing chain link that runs along one side would be retained.

Paul Healy moved to approve the Minor Modification. Doug Muir seconded the motion. The motion was unanimously approved.

City of Newburyport, Department of Public Services

24 Merrimac Street and Ferry Wharf

Request for Determination of Applicability

Brian Sullivan appeared for the applicant. The City wishes to re-grade two existing gravel parking lots on Ferry Wharf. The entrance of the western lot would be reconfigured. The existing material would be reused and additional crushed stone would be installed if necessary. The work would be within the 100-foot buffer zone and 200-foot Riverfront Area. Erosion control devices would be installed and would include silt sacks in the storm drains. Paul Healy moved to issue a Negative 3 Determination with the condition the work does not occur during any rain events. Dan Warchol seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission
August 19, 2014

Ken Labrecque

3 Parker Street

Request for Certificate of Compliance

DEP File #051-0825

Brian Murray appeared for the applicant and submitted an as-built plan, along with a letter that noted the deviations from the approved plans. Changes were made to some elevations in constructed wetlands and forebay. A hydroCAD analysis showed that floodwater storage would be consistent with the original design. Julia Godtfredsen said the detention basin is very large and appears to be well functioning. Dan Warchol moved to issue a Certificate of Compliance. Paul Healy seconded the motion. The motion was unanimously approved.

5. Public Hearings

Dan Warchol moved to open the public hearings. Doug Muir seconded the motion. The motion was unanimously approved.

Elizabeth Baumann

21 Shore Street

Notice of Intent

DEP File #051-0917

The applicant wishes to provide additional material to DEP and has requested that the public hearing not be opened at this time. The item was tabled until the September 2 meeting.

Leonidas Theodorou

190 State Street

Notice of Intent

DEP File #051-0911

Mark West appeared for the applicant and said there are no strong indicators of the presence of wetlands on the site. He said the installation of 18 trees and shrubs that is a part of the project would enhance the buffer zone. The size of the planting area would be greater than that of the previously delineated wetlands.

Peer reviewer Marc Jacobs submitted his report and said the applicant's own data shows that the water table is close enough to the surface to provide the hydrology necessary for sustaining wetlands. He said the only way to confirm the hydrology would be to dig test pits to the former surface of the soil. He added the applicant has said there are no signs of wetland hydrology on the site, but hydric soils exist and are a sign of wetland hydrology. He acknowledged that while other signs of hydrology can be found on the site, the indicators are mixed. He concluded that even if further testing were to confirm the presence of isolated wetlands, their functional value would be low. Joe Teixeira commended Mr. Jacobs on the thoroughness of his report.

The Commission members agreed that the collection of additional information would not be beneficial. An easement must be created for the mitigation area that is to be located on 192 State Street, as the Notice of Intent is for 190 State Street alone. Paul Healy moved to close the public hearing. Doug Muir seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission
August 19, 2014

Gary Swerling, Packaging Realty Trust

3 Opportunity Way

Abbreviated Notice of Resource Area Delineation

Mark West appeared for the applicant. The wetland boundary was flagged after the site visit and was based on soil probes and vegetation. The Commission members wish to visit the site with the flags in place. Paul Healy moved to continue the public hearing to September 2. Joe Teixeira seconded the motion. The motion was unanimously approved.

Doug Muir moved to close the public hearings. Dan Warchol seconded the motion. The motion was unanimously approved.

6. Orders of Conditions

Leonidas Theodorou

190 State Street

DEP File #051-0911

Paul Healy moved to issue an Order of Conditions with the following special conditions:

- 1) prior to the start of work language shall be provide to the Commission for review and approval for the creation of an easement on 192 State Street for the purpose of storm water and wetland mitigation,
- 2) prior to the start of work a revised site plan showing the wetland mitigation area and plant list shall be provided for review and approval,
- 3) the mitigation area shall be monitored annually for two growing seasons and any plant materials that do not survive shall be replaced with substitute species,
- 4) the applicant must apply for a Certificate of Compliance prior to the expiration of the Order of Conditions.

Dan Warchol seconded the motion. The motion was unanimously approved.

7. General Business

Off-Site Mitigation

On many sites in the industrial park, mitigation might provide only a minimal amount of flood storage or might be of little value otherwise. The Commission members discussed the benefits of allowing applicants to perform off-site mitigation. This might take the form of wetland creation or restoration or the provision of flood storage. Off-site mitigation might be allowed on a site-by-site basis. The planting of trees is very beneficial and the creation of a tree farm was also discussed.

8. Adjournment

Doug Muir moved to adjourn the meeting at 8:10 p.m. Paul Healy seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will be held on September 2, 2014.