

**Newburyport Conservation Commission**  
September 19, 2017  
Board Room, 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, David Vine, Doug Muir and Dan Warchol. Steve Moore, Paul Healy and Dan Bourdeau were absent. Conservation Administrator Julia Godtfredsen was also in attendance.

**3. Minutes**

Dan Warchol moved to approve the minutes of the September 5, 2017 meeting as submitted. David Vine seconded the motion. The motion was unanimously approved.

**4. Old and New Business**

**Plum Island Updates**

None

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

**George Haseltine**

288 Water Street

Emergency Certification

The Building Inspector ordered the house to be demolished within 30 days due to its condition. The foundation will be removed and filled. A Notice of Intent will be submitted at a later date for a replacement house. Doug Muir moved to issue an Emergency Certification. David Vine seconded the motion. The motion was unanimously approved.

**James and Nancy Pelletier**

12 Gloria Street

Request for Determination of Applicability

Tom Hughes represented the applicants, who wish to remove a swimming pool and some of its associated concrete. Not all of the concrete is to be removed at this time for financial reasons. The pool would be filled with sand and the area would be covered with gravel. Mr. Hughes said the removal of the pool would serve to improve dune function and the gravel would make the area stable. The Commission members questioned the need for the gravel and said they would prefer the area to be bare sand or planted. Mr. Hughes responded the applicants do not wish to install plant materials at this time because this might hinder their ability to expand the house in the future. They are concerned vegetation could become established if the area were sand. The applicant must use rounded stones instead of gravel. David Vine moved to issue a Negative 3 Determination with the conditions that rounded stones, clam shells or plant materials native to

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Plum Island may be installed in the area of the removed pool if necessary and no structures of any kind may be placed in the area or formalized parking created without Commission approval. The applicant may remove additional concrete and fill the area with clean beach grade sand without seeking further permission from the Commission. Doug Muir seconded the motion. The motion was unanimously approved.

**Marc Jacobs, Consulting Wetland Scientist** □

260 Merrimac Street □

Request for Certificate of Compliance

DEP File #051-0737

Julia Godtfredsen visited the site with Marc Jacobs. An area where the turf is thin is to be reseeded at the time the siltation barriers are removed. There is confusion as to whether or not Rosa rugosa was to be removed from the strip of land between the walkway and the river. At the June 16, 2015 meeting, the Commission approved an amendment to the Order of Conditions that had been issued in 2006. A revised planting plan was submitted to the Planning Board but was not included in the plan set submitted to the Commission. The minutes from that meeting state, “The applicant wishes to remove the Rosa rugosa hedge and replace it with native grasses that would be mowed one or two times per year.” Photographs show the Rosa rugosa was growing only on one side of the walkway at that time. The area between the walkway and river is currently not being mowed and a small amount of Rosa rugosa is growing there now, along with mugwort. Mr. Jacobs said the applicant intends to seed only the area from which the siltation barriers are to be removed and not the area between the walkway and the siltation barrier. The applicant will be required to remove all woody material and seed the entire area between the walkway and the river, as was indicated on the plan the Planning Board approved.

Dan Warchol moved to approve a Certificate of Compliance with the conditions the Certificate shall not be issued until the work has been completed to the satisfaction of the Conservation Administrator and the planting plan shall be maintained into perpetuity by the property owner, including the regular mowing of the planted areas on the river and upland side of the public walkway. Doug Muir seconded the motion. The motion was unanimously approved.

**6. Public Hearings**

Doug Muir moved to open the public hearings. 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 an extension. Dan Warchol moved to continue the public hearing to the October 3 meeting. David Vine seconded the motion. The motion was unanimously approved.

**Donna and Francis O'Hare**

4 70th Street □

Amend Order of Conditions

DEP File #051-0934

Tom Hughes represented the applicant, who received an Order of Conditions for a 6' x 10' addition with a ramp to access the house. The applicant is requesting to amend the Order to include a 16' x 24' deck that was constructed without a permit. The deck is at least two feet above grade. A sand ramp would be added to provide access to the ramp. The removal of knotweed has been included in the amendment as mitigation and a 15' x 15' area would be planted with beach grass. The rope railing and decking boards on the front entry porch are in need of replacement. The applicant does not intend to replace the lattice panels on the porch. David Vine moved to close the public hearing. Doug Muir seconded the motion. The motion was unanimously approved.

**Karen Damon and David Hamel**

496 Merrimac Street

Notice of Intent

DEP File #051-0979

The applicant is proposing to add a second home to a property that is entirely within the buffer zone. A site visit took place on September 7. The applicant is in the process of revising the plans to situate the house in such a way that it would be necessary to remove fewer trees. Mitigation will be proposed for those trees that are to be removed. Dan Warchol moved to continue the public hearing to the October 3 meeting. Joe Teixeira seconded the motion. The motion was unanimously approved.

**Evergreen Commons, LLC**

18 Boyd Drive and 5 Brown Avenue

Notice of Intent

DEP File #051-0973

Julia Godtfredsen attended a site walk with the applicant's representatives and the peer review team at which another ILSF was found on City property. The peer review is in progress. The applicant requested an extension. Dan Warchol moved to continue the public hearing to the October 3 meeting. Doug Muir seconded the motion. The motion was unanimously approved.

**Michael Waleryszak, VTR Northeast Holdings, LLC**

77 and 85 Storey Avenue

Notice of Intent

DEP File #051-0978

The applicant is proposing to expand Atria Merrimack Place. The plans have been revised based on comments made by CSI, the Planning Board's peer reviewer. CSI has approved the changes. A portion of the site is conservation land. The applicant is proposing to clear and grade this area, then plant it with a seed mix and allow it to naturalize. Joe Teixeira asked the applicant to add shrubs to the revegetated portion of conservation land. The applicant agreed to add four highbush blueberry and four winterberry plants to the area. An alternative plan would be to construct a retaining wall to avoid the grading of the conservation land. Doug Muir moved to

allow the work on the conservation land in order to avoid the need for a retaining wall. Dan Warchol seconded the motion. The motion was unanimously approved. The conservation land will not be included in the Order of Conditions. Doug Muir moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

**Joseph G. Hill, Parker 2 Realty Trust**

Parker Street (Hines Way) □

Notice of Intent

DEP File #051-0980

Lisa Mead represented the applicant and requested a continuance. The stormwater management plans associated with a 23-unit condo development must be revised due to the City's decision to locate the Rail Trail on the same side of the street. The City wishes there to be a closed drainage system for the road in front of the structures. The applicant in response is proposing to install rain gardens between the units to promote stormwater infiltration. The revisions to the stormwater management plans would create 2,000 square feet of disturbance in the resource area, resulting in 3% more intrusion than the 20% allowed. A site visit will take place before the October 3 meeting. Dan Warchol moved to continue the public hearing to the October 3 meeting. David Vine seconded the motion. The motion was unanimously approved.

Dan Warchol moved to close the public hearing portion of the meeting. David Vine seconded the motion. The motion was unanimously approved.

**7. Enforcement**

**7 67<sup>th</sup> Street**

The property owners added a retaining wall to hold a failing gravel driveway in place. In addition the driveway is 14 feet wider than shown on an as-built plan from a previous filing, an increase of 490 square feet. The applicant is proposing to remove weeds and trash from the property and in March plant 1,875 square feet of beach grass and native species as mitigation. It was recommended that cobbles be added to delineate the planting area. Dan Warchol moved to accept the restoration plan for the planting of beach grass and other species native to Plum Island as mitigation for the expanded driveway and retaining wall with the condition the work is completed by June 1, 2018. Doug Muir seconded the motion. The motion was unanimously approved.

**25 Basin Street**

Lisa Mead and Tom Hughes represented the property owners, who installed a solid fence, replaced the creosote borders of a planting bed with granite, added loam and converted a brick walkway to cobblestones. A Notice of Intent has been filed but DEP has not yet been copied and the abutters have not been notified. The Commission members are not in favor of the work being handled as a Notice of Intent because there would be no requirement that it would be completed by a certain date, if ever. Attorney Mead agreed the violation should be remedied separately. The Enforcement Order and Notice of Intent will not be tied together but will instead be undertaken concurrently. The applicant must bring the property into compliant with the ordinance. It is not acceptable for non-compliant features to be replaced with those that are also in violation of the ordinance.

**8. Orders of Conditions**

**Donna and Francis O'Hare**

4 70th Street □

DEP File #051-0934

Doug Muir moved to amend the Order of Conditions with the stipulations the permitted area of deck would be 12' x 20' rather than 16' x 24'; the ramp shall not be considered to be a part of the deck because it does not meet the standards for a deck under the ordinance; should the ramp ever be removed it may not be replaced with a deck without a permit; and no new or replacement lattice shall be installed on the reconstructed front deck. David Vine seconded the motion. The motion was unanimously approved.

**Michael Waleryszak, VTR Northeast Holdings, LLC**

77 and 85 Storey Avenue

DEP File #051-0978

Dan Warchol moved to issue an Order of Conditions with the special conditions: 1) the plantings on the conservation restriction slope shall include native shrubs such as winterberry and blueberry rather than just native grasses and eight of these shrubs shall be interspersed with the native seed mix, 2) to the extent possible and as shown on the approved pedestrian plan public access to the nature trail shall be maintained at all times during construction and shall be marked with signage directing pedestrians to the temporary access path and 3) no snow shall be deposited in the 25-foot no-disturb zone, the City's conservation restriction area or the stormwater detention basin/constructed wetland. Doug Muir seconded the motion. The motion was unanimously approved.

**9. Adjournment**

Dan Warchol moved to adjourn the meeting at 10:20 p.m. Doug Muir seconded the motion. The motion was unanimously approved.