

Newburyport Conservation Commission
October 18, 2017
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 6:45 p.m.

2. Roll Call

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

3. Minutes

Paul Healy moved to approve the minutes of the September 19, 2017 meeting as submitted. Dan Bourdeau seconded the motion. The motion was unanimously approved.

4. Old and New Business

Jeff and Donna Sprague

15 63rd Street

DEP File #051-0945

The applicant is seeking an occupancy permit from the Building Department. Julia Godtfredsen visited the site in found the project was not elevated 2'-2" above grade as was indicated in approved plans. It is only 12" above grade many locations. It might be necessary to raise the siding to the required elevation. The applicant's contractor said after the previous house was demolished the site was built up with peastone and gravel. He might be allowed to remove this material if he is able to provide survey data showing the elevation of the site before work began. He would not be permitted to change the form of the dune to achieve the required elevation. Tom Hughes will work with the applicant to develop a proposal to bring the project into compliance with the local ordinance.

245 Northern Boulevard

The property owner purchased a vacant lot in the AO zone that had been the site of the Oliver House, which was demolished. She said she had been told the lot is a buildable one but now has found it is not. The previous owners of the Oliver House had subdivided the lot and filed a Notice of Intent to improve the existing structure and construct a new home at the rear of the property. When they requested a Certificate of Compliance they stated they did not intend to complete the portion of the project that involved the Oliver House and the structure was demolished. Building Commissioner Peter Binette has communicated to Julia Godtfredsen that he ordered the demolition of the Oliver House due to its poor condition. Because no development is allowed in the AO zone, a variance would be required to construct a new house on the lot. The Commission has the ability to grant a variance if it would be necessary to avoid so restricting the use of the property it could be considered a taking without compensation. The property owner was advised to file a Notice of Intent and request a variance.

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

None

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

6. Public Hearings

Joseph G. Hill, Parker 2 Realty Trust

Parker Street (Hines Way)□

Notice of Intent

DEP File #051-0980

The applicant requested an extension. Dan Bourdeau moved to continue the public hearing to the November 8 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Charles Palmisano□

10 Jefferson Court□

Request for Amendment

DEP File #051-0805

An Order of Conditions was issued in 2009 for the construction of a garage on the west side of an existing structure. In 2016 the Commission approved amended plans for an addition in the same location that was smaller and further from the river than the garage would have been. The applicant now wishes to construct this addition on a foundation rather than a concrete slab and increase its size by two feet on its western side. The area that would be impacted is currently mowed lawn. Steve Moore moved to approve the proposed changes to the Order of Conditions. Dan Bourdeau 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

Tom Hughes, Steve Sawyer and Lisa Mead represented the applicant. The plans are in the process of being revised in response to a second round of comments from CSI, which is reviewing the project for the Planning Board. This response will then be submitted to CSI and Horsley Whitten, the Commission's peer reviewer. The two large issues that have not yet been resolved are the spring average high water level and the ILSF area. These issues have a strong impact on the design of the development.

Steve Sawyer discussed the ground water elevation that was observed at well #2. He said the well is not indicative of the aquifer. He said while the issue of the ground water level has not yet been resolved it is unlikely to result in a change to the plans.

An abutter submitted data from an additional monitoring well directly to Horsley Whitten. This data has not been reviewed because it did not come through the appropriate channel, which would be the Commission.

Newburyport Conservation Commission
October 17, 2017

Neil Price of Horsley Whitten summarized the comment letter prepared for the Commission. The focus of the review was the potential impact of the development on the wetland resources on the site and the impacts on water quality that might result. This includes both water quality in the resource area and ground water quality, which might impact the City's drinking water supply. It was presumed that compliance with the wetlands regulations and the Massachusetts stormwater standards would protect both the resource area and the quality of the water. The project was therefore evaluated in terms of how well it meets key regulatory provisions. He said upon the resolution of some details, the current project design could meet the criteria of both the WPA and the local ordinance.

Amy Ball, also of Horsley Whitten, said the applicant should be able to meet all performance standards if the details of the project are properly addressed. These details are the performance standards for ISFL, the local performance standards for IVW and the request for a local variance. The project could be adequately designed to provide a resilient wetland that will allow for fluctuations in the level of the ground water from year to year while supporting a wetland plant community. The peer review comment letter includes recommendations on the type of vegetation that is to be planted in the wetland area and the buffer zone. She recommended it be determined the ISLF is accurately depicted on the plans. She said the variance request should include more information on the impacts to the IVW and the maintenance plan for the conservation restriction area should be a part of the Order of Conditions.

When asked, Ms. Ball said provided the performance standards are met, the project could have a positive impact on the resource area. The ILSF is currently not highly functioning. The IVW would be made larger and deeper and a layer of organic matter would be incorporated. This would improve water quality and support a more diverse plant community. In addition invasive species would be monitored.

Joe Teixeira opened the meeting to comments from the public. Bob Mazzotti, 8 Brown Avenue, said he does not believe the accurate level of the ground water has been determined. He said not enough attention is being paid to well #2. In his opinion habitat will be destroyed and the well will become contaminated when construction begins. Peter Hatcher, 15 Boyd Drive, is concerned about basements flooding. He asked about the 57.5 reading at one of the test pits, which is the same elevation as the basements. Neil Price responded that it is possible for test pits to be off, so it is best to look at them as a whole. Some readings might be out of line with others.

The Commission members asked to be sent the latest version of the homeowners' agreement and the applicant's response to the peer view comments. Julia Godtfredsen will try to obtain a response from the Water Commission.

The applicant requested an extension. Dan Bourdeau moved to continue the public hearing to the November 8 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Hooks Johnston

15 and 16 Gloria Street

Notice of Intent

DEP File #051-0974

Tom Hughes provided a brief description of the project but the materials were not submitted prior to the deadline for the October 17 meeting. Julia Godtfredsen commented it is problematic

Newburyport Conservation Commission
October 17, 2017

that a bank stabilization project does not include plans to vegetate the bare sand at the top of the bank. Dan Bourdeau moved to continue the public hearing to the November 8 meeting. Steve Moore 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. The proposed structure has been moved closer to the street to allow for the removal of fewer trees. Tom Hughes requested the Commission submit a letter of support for the amended plans to the planning and zoning boards. Dan Bourdeau moved to provide a letter of support for the project stating the amended plans would better protect the wetland close to the river. Steve Moore seconded the motion. The motion was unanimously approved. Dan Bourdeau moved to continue the public hearing to the November 8 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Ron Guertin

1 Spofford Street

Tom Hughes introduced the Notice of Intent for a path to the river and a concrete pad that connects to a seasonal float. He requested a continuance. Dan Bourdeau moved to continue the public hearing to the November 8 meeting. Dan Warchol seconded the motion. The motion was unanimously approved.

George Haseltine

288 Water Street
Notice of Intent

Tom Hughes represented the applicant. An Emergency Certificate had previously been issued for the demolition of a house. The location of the replacement house would be closer to Water Street than the previous structure. The driveway would be moved from Water Street to Shandel Drive. An inkberry hedge would be added at the edge of the property along the two streets for habitat value. The water and sewer connections have not been shown on the plan. The applicant must also add the extension of the sidewalk along the street and to the house and depict the means by which sediment would be controlled at the exit of the site during construction. Steve Moore moved to close the public hearing. Paul Healy seconded the motion. The motion was unanimously approved.

American Yacht Club

Tom Hughes presented plans to repair a retaining wall that runs along the perimeter of the site. The wooden timbers in the wall have rotted, causing it to bow. The applicant is proposing to leave the existing wall in place, install a new wall one foot away and fill the space between them. Some salt marsh would be impacted. The Commission members were not convinced the solution is a good one and wish to visit the site. Steve Moore moved to continue the public hearing to the November 8 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

Newburyport Conservation Commission
October 17, 2017

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

7. Enforcement

25 Basin Street

Tom Hughes represented the property owner and said he wished to review the comments made at the site visit before revising the plans. The large rocks, timbers and lattice that were removed from their locations around the house were not disposed of and must be taken off the site. The property owner wishes to retain a small amount of lattice around the foundation of the deck to prevent a dog from being able to leave the yard. Mr. Hughes said the property owner offered to remove some lawn in exchange for retaining a portion of the hardscaped walkway but is prepared to install clamshells with a cobble edging. The property owner wishes to replace the granite edging around the planting bed with timber. It was pointed the regulations allow the use of edging to retain loose materials in patios, walkways and driveways, but was not intended to be used for planting beds. The three cubic yards of loam that was added to the planting bed will be removed. Cobbles will be used for edging. The granite curbing along the street will be retained, but one of the two rows of cobbles behind it will be removed. The hardscaped walkway will be replaced with an appropriate material. The revised plans will be submitted for review at the November 8 meeting.

8. Order of Conditions

George Haseltine

288 Water Street

Dan Warchol moved to issue on Order of Conditions with the special conditions that prior to start of work the revised plan showing the necessary water and sewer connections, the sediment control at the exit of the site and the sidewalk extensions shall be provided.

9. Adjournment

Dan Warchol moved to adjourn the meeting at 10:05 p.m. Paul Healy seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission will take place on Wednesday, November 8.