

Newburyport Conservation Commission

May 17, 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 Mary Casey and Conservation Agent Mary Reilly and Planning Director Andy Port. Dan Warchol was absent.

3. Minutes

Paul Healy moved to approve the minutes of the May 3, 2011 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

4. General Business

Discussion of Mayor's FY2012 Budget

Joe Teixeira commented that Mary Reilly puts many hours into her job. He questioned how Andy Port would be able to take on the role of conservation agent given his position is already a full-time one. Doug Muir asked Mr. Port if assuming the duties of the conservation agent would constitute a conflict of interest that would require an opinion from the ethics commission. Mr. Port responded that his job description already includes the duties of the conservation agent. He said he is not taking a second position and the raise he will be receiving is not related to the increased responsibilities. He said the position of conservation agent is not being funded for FY2012 and he would take on the duties of reviewing applications and scheduling site visits. Joe Teixeira asked if alternative funding sources for the position had been sought. He also said the Plum Island ACO requires there be a conservation agent. Mr. Port said the regional director of DEP has said this provision is obsolete.

New Ordinance and Regulations Status

Andy Port said in his opinion the ordinance and regulations should be blended into one document. Joe Teixeira said there is sound reasoning for having separate documents. Mary Casey said it would be most effective to review the documents at a special meeting. Doug Muir asked that Commission members be sent Andy Port's comments so they might review them before the discussion.

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

City of Newburyport

North Reservation Terrace

Request for Determination of Applicability

Richard Jones said that John O'Connell has developed a plan for widening the existing 42" elevated walkway at the Plum Island Point Boathouse to 48". The additional width will be

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cantilevered to one side and the existing pilings are to be use. Mr. Jones said that while the plan might be further refined, it would not impact the conditions at ground level. Steve Moore said he is concerned about beach grass being disturbed during the course of the work. Mary Reilly said the limit of work should be delineated so the beach grass beyond it is not disturbed. Steve Moore moved to issue a Negative 2 Determination with the conditions that snow fencing or its equivalent be used to delineate the limit of work, before and after photographs of the beach grass in the area are taken and any beach grass that is lost must be replaced. Doug Muir seconded the motion. The motion was unanimously approved.

Eric Carpenter

10 Wildwood Drive

Request for Certificate of Compliance

DEP File # 051-0800

The applicant extended a driveway and added a garage. Mary Reilly said she visited the site and everything appeared to be in order, although the work is very close to the BVW. A berm was added in order to minimize the runoff from the driveway into the wetland. The applicant has submitted as as-built plan, but it has not been stamped and signed by an engineer and he is seeking relief from this requirement. In response to a question by Paul Healy, he said the garage was constructed as proposed. Paul Healy moved to issue a Certificate of Compliance. Mary Casey seconded the motion. The motion was unanimously approved.

Christopher Skiba, Newburyport Development

1 Tournament Wharf

Request for Determination of Applicability

The applicant is proposing to install a prefabricated bar on an existing deck. No food will be served at the bar and only plastic cups are to be used. No soil will be disturbed during the course of the work. Mary Casey moved to issue a Negative 2 Determination. Paul Healy seconded the motion. The motion was unanimously approved.

Cheryl LeBlanc

10 Julia Street

Request for Certificate of Compliance

DEP File # 051-0841

The applicant added a sunroom to an existing deck. The footprint of the deck was not expanded. Paul Healy moved to issue a Certificate of Compliance. Mary Casey seconded the motion. The motion was unanimously approved.

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

6. Public Hearings

Bud Jerrett

17 Graf Road

Notice of Intent

DEP File #051-0864

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The applicant requested a continuance. Doug Muir moved to grant a continuance to June 7. Steve Moore seconded the motion. The motion was unanimously approved.

Springwell Investments

Russell Terrace Extension/Crow Lane
Amend Order of Conditions
DEP File #051-0739

Michael Seekamp said the layout of the house and driveway on Lot 10 was reconfigured in response to concerns about snow removal. Three river birches were added between the driveway and the rain garden. The stone wall and no disturb zone were extended and the number of monuments was increased by five. More trees will be added at the edge of buffer zone. Some trees from Lot 10 are to be relocated to the northern side of the site, while others will be planted on City land near the trail. Joe Teixeira said an additional location for the trees might be the northwest side of the development. The City must grant permission for the trees to be planted on City land. Joe Teixeira said he would like shrubs added near the retaining wall. Comments from Christensen and Sergi have yet to be received. Doug Muir moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Thomas Litle

6 Bayne Lane
Notice of Intent

The applicant is proposing to install an in-ground pool with a stone patio and seat wall in the buffer zone to the BVW. The patio is within 200 feet of the riverfront. There are to be one-half inches spaces between the stones to allow for infiltration. Native and non-native species are to be planted around the pool and patio. The pool is self contained and no water will be discharged from it. The excavation for the pool will be near a large tree that must be protected during construction. The edges of the patio and pool will be staked for a site visit that is scheduled to take place on Tuesday, May 25 at 6:00 p.m. Doug Muir moved to continue the public hearing to June 7. Steve Moore seconded the motion. The motion was unanimously approved.

National Grid

95 Water Street
Notice of Intent
DEP File #051-0866

Mary Casey recused herself from the discussion. The applicant is proposing to remove five unused structures. Matt Kelly distributed a letter that summarized the issues discussed at the site visit. The diesel storage tank and dispenser will be taken off-site but the pad will remain in place and no soil will be disturbed. The three light poles in the paved area will be removed. Clean fill will be added to the area that will be disturbed by this work and it will be seeded. There are no hazardous materials on the site. Doug Muir moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Michael Arcidi, Port Associates Limited Partnership

4-6 Hale Street
Notice of Intent

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DEP File #051-0867.

Tom Hughes appeared for the applicant. A new 123-bed healthcare facility is being proposed on the site of an existing facility. The new structure will be located in the area of the existing parking lot, between the existing structure and the BVW. After the new facility has been constructed the existing structure will be demolished. A temporary parking area comprised of permeable paving will be located along Low Street during the construction. In order to access the new building, a portion of the wetland must be filled and the BVW must be crossed. To mitigate the impacts a 2:1 replication in the upland area is being proposed, while only a 1:1 replication would be required by the regulations. Mr. Hughes said it is necessary to exceed the performance standards due to the large number of invasive plants in the BVW and buffer zone. He said the existing wetland is not high functioning. Switch grass will be planted in the buffer zone to create a barrier for the invasive species. The BVW restoration and replication areas will be seeded with a blend of native species and wildflowers.

Steve Sawyer presented information on storm water management. Snow would be pushed away from the water quality treatment areas. Mary Reilly requested that this information be included in the plans. The parking and snow storage areas are in the non-jurisdictional part of the site. Steve Moore asked about a green roof and was told there is too much mechanical equipment on roof to allow for a green roof. The applicant will be appearing before the Planning Board on June 1.

Joe Teixeira opened the meeting to public comment. Cynthia Welch-Philippino, 14 Coltin Drive said she has seen a great deal of wildlife in the area. She said she wants the plans to include more information about plantings, fencing and snow removal near her property line. She said she was told at a neighborhood meeting that the proposed site of the facility is not ideal and she believes the amount of replication is an indication of this. Anthony Philippino, 17 Coltin Drive, said he is concerned about re-grading and the resulting runoff. Steve Sawyer responded the area is being planted and the runoff will be infiltrated. The development will result in a change to the natural topography and the grading and runoff will be considered during the peer review process. David Lacasse, 2 Pheasant Run Drive, said he is concerned about runoff from the property impacting the water table and leading to flooding. Steve Sawyer said the development would improve the off-site flow by 10%. Joe Teixeira said the water is now flowing on Hale Street and the plan should help minimize the runoff from the site. A site visit will take place on May 24. The applicant requested a continuance. Steve Moore moved to continue to the public hearing to June 7. Mary Casey seconded the motion. The motion was unanimously approved.

Doug Muir moved to close the public hearings. Paul Healy seconded the motion. The motion was unanimously approved.

7. Enforcement

John and Cynthia Palladino

23 Philips Drive

Tom Hughes said the owners are cooperative and willing to offset the impacts of the unauthorized work. He has been working to develop a restoration plan but has been delayed by the weather.

8. Orders of Conditions

Springwell Investments

Russell Terrace Extension/Crow Lane

DEP File #051-0739

Paul Healy moved to approve and Amended Order of Conditions with the following conditions:

1) the additional monuments are to be shown on the plan, 2) the homeowners' association is responsible for maintaining the storm water devices and rain gardens and if this is not done the City has the right to perform the maintenance at the expense of the homeowners' association, 3) the applicant must obtain permission from the City to plant trees on City property before any work is done and must provide the Commission with an alternative plan if this permission is not granted, 4) a detail planting plan must be submitted for Lot 10 and the area near Russell Terrace, 5) a draft conservation restriction must be submitted to the City by June 30, 6) the homeowners' association will be responsible for maintaining the boundaries of the land subject to the conservation restriction and making sure the wetlands are not used for the dumping of any materials, and 7) a satisfactory report must be received from Christensen and Sergi. Steve Moore seconded the motion. The motion was unanimously approved.

National Grid

95 Water Street

DEP File #051-0866

Paul Healy moved to issue an Order of Conditions. Steve Moore seconded the motion. The motion was unanimously approved.

9. Adjournment

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