

## **Newburyport Conservation Commission**

July 7, 2015

City Hall Auditorium

Minutes

### **1. Call to Order**

Chair Joe Teixeira called a meeting of the Newburyport Conservation Commission to order at 6:50 p.m.

### **2. Roll Call**

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

### **3. Minutes**

Paul Healy moved to approve the minutes of the June 16, 2015 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

### **4. Old and New Business**

#### **23 Everett Drive Update**

Tom Hughes represented Amanda Thorpe, to whom a Negative 2 Determination was issued in 2014 for the removal of invasive species within the 100-foot buffer zone of the BVW. The work was to have been done by hand and none of the trees or native vegetation was to be removed. Instead a contractor used a crane to remove approximately 20 trees. Mr. Hughes said the uplands have been delineated and the diameters of the large stumps were notated. He expects to be able to present a planting plan at the July 21 meeting.

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

#### **John DiFillippo**

300-302R Merrimac Street

Request for Certificate of Compliance

DEP File #051-0902

Tom Hughes represented the applicant, who received a permit in 2013 for the replacement of a pier and walkway. The project also included a program to control invasive species. A perpetual condition permitted the late-season cutting of phragmites provided the Commission receives an annual report with photographs. Paul Healy moved to issue a Certificate of Compliance with the perpetual condition for the ongoing maintenance of the phragmites. Steve Moore seconded the motion. The motion was unanimously approved.

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**Eivind and Mary Lange**

230 Northern Boulevard

Request for Certificate of Compliance

DEP File #051-0879

Tom Hughes represented the applicant and presented the as-built plan. He said the work to construct an addition to an existing single-family home was done in compliance with the Order of Conditions. Doug Muir moved to issue a Certificate of Compliance. Steve Moore seconded the motion. The motion was unanimously approved.

**6. Public Hearings**

Doug Muir moved to open the public hearings. Steve More seconded the motion. The motion was unanimously approved.

**Peter Chetsas**

7 Moulton Street

Notice of Intent

DEP File #051-0940

The public hearing had been continued from the June 16 meeting because a DEP file number had not been issued. Dan Warchol moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

**Anthony Barbaris**

6 Perkins Way □

Notice of Intent

DEP File #051-0933

Ellie Baker of Horsley Whitten presented the findings of the peer review. She said she evaluated the functions and values of the wetlands that are protected under the WPA and the ordinance. With regards to the BVW, the wetland is a drainage ditch. The site is a highly disturbed one and the habitat is not unique. There is a great deal of erosion and the existing conditions that permit sediment to be carried into the Little River could be causing harm. She said while the BVW has value for flood control and flowage, the buffer is not an intact one and the wetland is not one that needs the protection the buffer would provide. She thinks the presumption of significance would be overcome with mitigation. The stormwater must be managed, which the applicant is proposing to do, and as long as the State standards are met, the wetlands would be protected.

With regards to the IVW, the vegetation is invasive and area has been disturbed. Ms. Baker said there is very little difference between these two isolated vegetated wetlands and the other parts of the property. They do hold some water but are quite small and the water is not infiltrating quickly into the ground. The IVW has some habitat value, but it is not unique. The value of the IVW could be overcome with stormwater management. The applicant would be providing both management and mitigation.

Steve Moore pointed out part of the flood control is located in the town of Newbury. A Notice of Intent has not yet been filed for this part of the project. Joe Teixeira said that because the variance would be granted on the basis of the mitigation, the Newbury Conservation Commission must first approve the project. The Order of Conditions issued by the Newbury Conservation Commission must be acceptable to the Newburyport Conservation Commission.

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Doug Muir moved to continue the public hearing to the July 21 meeting. Dan Warchol seconded the motion. The motion was unanimously approved.

**William Watts, 33 Low Street Condominium Association**

33 Low Street

Notice of Intent

DEP File #051-0939

The applicant is proposing to improve the quality of the water in a pond by installing a waterfall to circulate the water and to reinforce the edges of the pond with boulders and fieldstone to prevent erosion. The Commission had asked to receive additional information on the work, such as the type of equipment to be used, and a plan showing the location and the dimensions of the elements of the project. The applicant submitted photographs showing the size and type of plant materials to be installed, the location of the waterfall, the area where rows of stone would be placed and the type of equipment to be used. He also submitted a cross section showing the depth of the pond.

Steve Moore moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

**Niki Lagasse**

177 Storey Avenue

Notice of Intent

DEP #051-0937

The applicant is proposing to expand an existing veterinary clinic and create additional parking. A site visit took place on June 29. At the Commission's request, the locations of the trees within the limit of work were added to the plan and the trees to be removed were identified. The City Engineer, Jon Eric White, reviewed the plans and did not have any concerns with the stormwater management plan. The applicant updated the detail sheet in response to other recommendations made by Mr. White. These included the addition of a 12" sub-base of sand under the grass depression and the provision for drainage around the dumpster pad. Mr. White also questioned the location of the soil test pit. A design engineer would be on site during construction to verify the soils are consistent with the test pit data.

The applicant submitted a written response to a third-party review that was performed by West Environment, Inc. at the request of an abutter. Steve Jayne, 2 Melvin Court, said the water table on his property is rising. He said he finds it difficult to believe the project would not increase the amount of runoff from the site. Joe Teixeira responded that the area is at the northern terminus of the Little River. When the housing development was constructed, a pond was drained and a streambed was created to allow water to flow away from the site. He believes the water is collecting because the drainage system has not been maintained and the streambed has become filled with debris. He said the jurisdiction of the Commission is limited to the project being presented. Julia Godtfredsen recommended the residents of the area as a group bring their concerns to the attention of the Mayor in writing. She said the drainage is a problem for the neighborhood as a whole, including the applicant. The project meets the stormwater standards and improves upon the existing conditions by reducing the rate of runoff. The applicant cannot be made responsible for clearing the portions of the drainage system that are not on her property.

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Steve Moore moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

**Janine and Rich Miner**

11 Overlook Street

Notice of Intent

Tom Hughes represented the applicant, who is proposing to demolish an existing structure and replace it with one on pilings in a different location on the lot. American beach grass would be planted in the area from which the structure is to be removed. The new structure would be four feet above the base flood elevation. The footprint of the structure would be reduced, and while the size of the decks would be increased, the overall lot coverage would be less than with the existing conditions.

Steve Moore moved to close the public hearing. Joe Teixeira seconded the motion. The motion was unanimously approved.

**Elease Colcord**

10 55<sup>th</sup> Street

Notice of Intent

Mara Robinson and Verne Fisher represented the applicant, who is proposing to remove the existing asphalt from a driveway and replace it with peastone. A peastone patio and peastone walkways would be added, along with wooden boardwalk. The plan also calls for the installation of welded metal planters. A plan showing the existing conditions must be included in the package and more detailed information must be provided about the elements of the plan, such as the size and elevation of the shed. A DEP file number has not yet been issued. Joe Teixeira said a solid fence that appears to be new exists on the property and would not have been permitted.

Dan Warchol moved to close the public hearing. Steve Moore seconded the motion. The motion was unanimously approved.

Doug Muir moved to close the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

**7. Orders of Conditions**

**Peter Chetsas**

7 Moulton Street

DEP File #051-0940

Doug Muir moved to issue an Order of Conditions with the special conditions that the fence shall not extend into the wetland and a sign indicating the boundary of the wetland shall be installed at the end of the fence. Steve Moore seconded the motion. The motion was unanimously approved.

**Janine and Rich Miner**

11 Overlook Street

Doug Muir moved to issue an Order of Conditions with the standard Plum Island special conditions. Steve Moore seconded the motion. The motion was unanimously approved.

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**William Watts, 33 Low Street Condominium Association**

33 Low Street

DEP File #051-0939

Steve Moore moved to issue an Order of Conditions with the special conditions that the Kubota equipment shall not enter the pond and not shall not adversely impact the bank outside of the work area; the existing condition of the entire pond bank shall be documented prior to construction and the documents shall be submit to the Commission; and the impact to wetland vegetation along the bank shall be minimized. Dan Warchol seconded the motion. The motion was unanimously approved.

**Niki Lagasse**

177 Storey Avenue

DEP #051-0937

Doug Muir moved to issue an Order of Conditions with the special conditions that 1) pet waste shall be cleared at the end of each day and 2) the design engineer shall review the soils within the infiltration and bioretention areas to confirm consistency with the test pits, the data shall be provided to the Commission and any necessary changes to the design shall require the permission of the Commission. Steve Moore seconded the motion. The motion was unanimously approved.

**Elease Colcord**

10 55<sup>th</sup> Street

An Order of Conditions was not issued because a DEP file number has not yet been received. The planters were not shown on the plan and would not be permitted as described. Doug Muir moved to approve the special conditions that 1) the boardwalk shall be removed from the site between November 1 and April 1; 2) the shed dimensions shall be no more than 10' x 12' and the shed shall be placed on cinder blocks and anchored to the ground; 3) the fence shall be brought up to Plum Island standards if more than 10% of it were to be replaced; 4) the dimensions, materials and locations of the proposed planters shall be submitted for approval by the Commission before the start of work and 5) the Conservation Administrator shall visit the site prior to the start of construction to review the plans and special conditions. Steve Moore seconded the motion. The motion was unanimously approved.

**8. Enforcement**

None

**9. Adjournment**

Steve Moore moved to adjourn the meeting at 9:40 p.m. Dan Warchol seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission is scheduled for July 21, 2015.