

Newburyport Conservation Commission

September 15, 2015

City Hall Auditorium

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, David Vine, Dan Warchol, Paul Healy, Doug Muir, Dan Bourdeau and Steve Moore. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the August 18 meeting as amended. Steve Moore seconded the motion. The motion was unanimously approved.

Paul Healy moved to approve the minutes of the September 1 meeting as submitted. Steve Moore seconded the motion. The motion was unanimously approved.

4. Old and New Business

Drone Photography for Plum Island

The Commission members reviewed a draft RFP for drone photographs of Plum Island. They would like to have aerial photographs taken every three months at low tide on both the basin and ocean sides of the island. They would like the cost to be per flight rather than on an annual basis and they would like the contract to run for six months with an option for a six-month extension.

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

Dwight C. Brown and Donamarie Casey

216 Northern Boulevard

Request for Determination of Applicability

Carol Robertson represented the applicant, who is proposing to remove an existing lawn and replace it with gravel and native plant materials, and to remove Japanese knotweed from the site. Ms. Robertson indicated the square footage of plant materials to be installed would exceed the amount of gravel to be added, but some of the proposed vegetation would be added to areas that are currently sparsely vegetated. The applicant must document more accurately the net amount of vegetation to be added and must provide a plan showing the existing conditions. The replacement vegetation must be planted in areas where there is no existing vegetation.

A fence along the rear boundaries of the property appears to be newly installed and is not in compliance with the regulations. The fence must be modified to be 80% open for the first two feet above grade and 50% open above that.

Doug Muir moved to continue the request to the October 6 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

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Brett Maloney

15 Reservation Terrace

Request for Determination of Applicability

The applicant is proposing to replace the deteriorating pilings that support a single-family home with steel piles. The footprint of the structure would not be changed.

Doug Muir moved to issue a Negative 3 Determination with the conditions the applicant provide photographs documenting the condition of the site prior to construction and any vegetation damaged during the work must be replaced. Steve Moore seconded the motion. The motion was unanimously approved

Lombardi Oil Company

194-198 Merrimac Street

Request for Determination of Applicability

Paul Avery represented the applicant, who is proposing to improve a spill containment area located on land subject to coastal storm flowage. An existing concrete pad would be replaced and curbing added. The amount of impervious area would not be increased.

Dan Warchol moved to issue a Negative 2 Determination. Steve Moore seconded the motion. The motion was unanimously approved.

Jane Fantry

194 Northern Boulevard

Request for Determination of Applicability

Chris Currier represented the applicant, who is proposing to modify a small addition on the rear of a single-family home. The floor of the addition would be raised to be level with the remainder of the structure. The existing second story of the addition would be removed to accommodate a higher ceiling. The work would be done on the existing foundation and the size of the footprint would not be increased. A fence that borders the property does not meet the requirements of the local ordinance. The applicant has owned the property for less than a year and did not install the fence.

Dan Warchol moved to issue a Negative 2 Determination. Steve Moore seconded the motion. The motion was unanimously approved.

6. Public Hearings

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

7 Harbor Street Development, LLC

7 Harbor Street

Notice of Intent

The applicant is working to provide additional information to DEP, which still has not yet issued a file number. Doug Muir moved to continue the public hearing to the October 6 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Katy Dirks

8 57th Street

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Notice of Intent

The public hearing was continued from the September 1 meeting because a DEP file number had not been issued at that time. Paul Healy 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 051-0933

The applicant requested a continuance. Doug Muir moved to continue the public hearing to the October 6 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

Rodney L'Italien, Circle Finishing, Inc.

19 Henry Graf Jr. Road

Notice of Intent

Michael Seekamp represented the applicant, who is proposing to install solar panels at the rear of the site. The panels would be installed on posts, which would allow them to track the sun as it moves across the sky. The area around the posts would be maintained as meadow. During the construction phase of the project, the BVW would be temporarily impacted. In the winter, when the shadows are long, the panels might create some shade in the 25-foot no disturb zone, but the vegetation would not be impacted at this time of the year.

A solar array was installed on the site in 2012. Bud Jarrett, owner of the adjacent property, reported these panels shade his parking lot, which has led to icing in the winter. The applicant agreed to move the first row of the proposed panels and add a row of shrubs to screen the view of the rear of the panels. Mr. Jarrett did not grant access from his property for the installation or maintenance of the array.

DEP has not yet issued a file number. Dan Warchol moved to continue the public hearing to the October 6 meeting. Doug Muir seconded the motion. The motion was unanimously approved.

Proposed Amendments to Newburyport Wetland Protection Regulations

The Commission members continued the discussion on proposed changes to the regulations.

The crossing of any resource area might be allowed provided the impacts are mitigated.

The Commission members would be able to approve or disapprove the crossing at its discretion, but must be mindful of setting a precedent. A crossing would not be allowed if the impacts were too great to be mitigated and the applicant must demonstrate no reasonable alternatives exist. The crossing of a vernal pool would not be permitted. Julia Godtfredsen will revise the draft language for approval at the October 6 meeting.

Paul Healy 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. Enforcement

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Mike and Patty Deflumere

11 Harbor Street

A Notice of Violation was issued for the installation of a gabion on the dune. The Deflumeres said as the dune eroded, stones became visible on the beach. They believe the previous owner of the property had placed the stones on the dune in an attempt to stabilize it. The Deflumeres built a wall using gabion caging in an attempt to protect the dune and remove the stones from the beach. Joe Teixeira explained the solid structure would eventually be undermined and scouring would take place on its ends. The Deflumeres must remove the cages. They did not bring the stones to the site and will not be asked to remove them. There would be no benefit in returning the stones to the beach. It was suggested the stones might remain in place and be covered with coir bags. The Deflumeres will provide an update for the October 6 meeting.

8. Orders of Conditions

Katy Dirks

8 57th Street

Paul Healy moved to issue an Order of Conditions with the special condition that prior to the start of work the applicant shall provide the dimensions of the wall. David Vine seconded the motion. The motion was unanimously approved.

9. Adjournment

Paul Healy moved to adjourn the meeting at 9:25 p.m. Steve Moore seconded the motion. The motion was unanimously approved. The next meeting of the Conservation Commission is scheduled for October 6, 2015.