

**Newburyport Conservation Commission**  
September 6, 2016  
Senior/Community Center Board Room  
Minutes

**1. Call to Order**

Acting Chair Paul Healy called a meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

**2. Roll Call**

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

**3. Minutes**

Doug Muir moved to approve the minutes of the August 16, 2016 meeting as submitted. Dan Bourdeau seconded the motion. The motion was unanimously approved.

**4. Old and New Business**

**190-192 Turnpike Street**

**Informal Discussion**

The project to construct a building for retail and office tenants was permitted 2008 and the plans were amended in 2015. The site is a disturbed one and it was difficult to determine the wetland boundaries during the permitting process. Three small wetlands under 1,500 square feet had been identified. The applicant wishes to increase the amount of parking by 25-26 spaces to accommodate the Zoning Board requirements for a particular type of tenant. The additional parking is proposed for an area that had been planned for wetland enhancement and would result in the loss of vegetation.

The Commission members said the new plan is less desirable than the previously approved plan because the parking would be situated closer to the wetland. They would like the parking to be moved to the front of the site, out of the buffer zone. They would like the enhancement area to be at least as large as was originally proposed, even if this result in an intrusion into the 25-foot no disturb zone. The resource area currently is not high functioning.

**Newburyport Yacht Club**

300R Merrimac Street

**Informal Discussion**

Tom Hughes represented the applicant, who is proposing to demolish a large storage facility located in the 25-foot no disturb zone. The area from which the building is to be removed would be converted to gravel for parking or boat storage. A smaller storage area would be added to the existing clubhouse. In this area, between 1,200 and 1,600 square feet would be converted from gravel to building. The Commission responded that no language in the ordinance provides for the swapping of disturbances in the 25-zone. In order for such a request to be considered, the applicant must be prepared to offer an improvement to the site, such as an enhancement of the storm water capacity.

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**496 Merrimac Street**

Informal Discussion

Tom Hughes represented the applicants, who wish to construct a second home on their property. The lot is entirely within the buffer zone. The new structure would be located in an area that is currently lawn. Mr. Hughes would like to limit the amount of retaining wall that would be needed for the driveway by re-grading a portion of the site and then returning it to lawn. The work would exceed the 20% limit allowed by the local ordinance, but the disturbance would be a temporary one in an area that is currently disturbed by lawn. The Commission members did not voice any objections to the proposal.

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

**Port Rehab**

4-6 Hale Street

Request for Minor Modification

DEP File #051-0867

Steve Sawyer represented the applicant, who wishes to clean a portion of a City-owned swale that runs along Hale Street and connects with the swale system in the industrial park. The growth of vegetation has created a berm that results in the back up of water in the swale. The Commission members were concerned the action would simply move the problem downstream. The applicant does not wish to be solely responsible for cleaning the entire length of the swale but would be willing to work with the DPS to accomplish the task. A discussion took place on the plan to place riprap in the base of the swale. Vegetation with an erosion control blanket might be a preferable solution.

Doug Muir moved to approve the minor amendment with conditions the swale cross section shall to be approved by the DPS prior to the start of work and the final plans shall be submitted to the Commission along with a revised narrative letter that specifies the length of the swale that is to be cleaned. Dan Warchol seconded the motion. The motion was unanimously approved.

**Vern Ellis and Susan Stone**

10 77<sup>th</sup> Street

Request for Certificate of Compliance

DEP File #051-0900

A partial Certificate of Compliance had previously been issued for the house and driveway. The plantings were to be monitored for two years. The beach grass has become established on the site. Dan Warchol moved to issue a Certificate of Compliance. David Vine seconded the motion. The motion was unanimously approved.

**6. Public Hearings**

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

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**Ronald Guertin, Carr Island, LLC**

386 Merrimac Street

Notice of Intent

The applicant requested an extension. Dan Warchol moved to continue the public hearing to the September 20 meeting. Dan Bourdeau seconded the motion. The motion was unanimously approved.

**Jason and Kimberly Bell**

11 Pheasant Run Drive

Notice of Intent

DEP File #051-0958

Tom Hughes represented the applicants, who are proposing to expand an existing deck and add a swimming pool with a patio and pool house. Wetlands surround the property on three sides and the entire site is in the buffer zone. A small portion of the patio would intrude into the no-disturb zone, but this area is already disturbed by lawn. The project is permissible because the pool would be an accessory structure to an existing single-family house on a lot located entirely within the buffer zone. Doug Muir moved to close the public hearing. Dan Warchol seconded the motion. The motion was unanimously approved.

Dan Warchol moved to close public hearings. David Vine seconded the motion. The motion was unanimously approved.

**7. Orders of Conditions**

**Jason and Kimberly Bell**

11 Pheasant Run Drive

Doug Muir moved issue an Order of Conditions with the special conditions that the silt fence line shall be moved into lawn area and not immediately adjacent to the wetland line; the drywell location shall be moved to a slightly higher elevation; two new trees shall be planted in the southwest corner of the buffer zone to compensate for the potential loss of one tree adjacent to the pool area; and revised plans shall be submitted to the Commission prior to the issuance of the Order of Conditions. Dan Warchol seconded the motion. The motion was unanimously approved.

**8. Enforcement/Violations**

**17 82nd Street**

David Vine recused himself from the discussion. A Notice of Violation was issued to Tom Lawrence for the construction of a deck without a permit. Mr. Lawrence had not responded by the time of the meeting and did not attend the meeting. Dan Warchol moved to require Tom Lawrence to attend the September 20 meeting to provide information on the construction of the deck and to assess a fine of \$100 per day beginning September 20 if a response is not received. Dan Bourdeau seconded the motion. The motion was unanimously approved. Doug Muir moved to allow Julia Godtfredsen to issue an Enforcement Order on behalf of the Commission. Dan Warchol seconded the motion. The motion was unanimously approved.

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A Notice of Violation was issued to Tom Lawrence and Sara Bulger for the removal of beach grass from a jointly owned property. Ms. Bulger attended the meeting. No action will be taken at this time to allow the two owners the opportunity to work towards an agreement.

**216 Northern Boulevard**

The Commission members voted at the August 16 meeting to issue an Enforcement Order and fine the property owner \$100 per day if the fence is not in compliance with the local ordinance by September 13, 2016. An acceptable plan has been received. David Vine moved to accept the remediation proposal for the fence dated August 30, 2016. Dan Bourdeau seconded the motion. The motion was unanimously approved.

**9. Adjournment**

Dan Bourdeau moved to adjourn the meeting at 9:05 p.m. David Vine seconded the motion. The motion was unanimously approved. The next meeting will be scheduled for Tuesday, September 20, 2016.