

**Newburyport Conservation Commission**  
**February 1, 2022**  
**Online Meeting**  
**Minutes**

**1. Call to Order**

Chair Joe Teixeira called an online meeting of the Newburyport Conservation Commission to order at 6:45 p.m.

**2. Roll Call**

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

**3. Minutes**

Paul Healy moved to approve the minutes of the January 18, 2022, meeting. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes)

**4. Old and New Business**

**Plum Island Updates**

Two topics of discussion at the January 28 MRBA meeting were dredging and preparations for an upcoming storm. The Piscataqua River dredge is underway. The project to dredge the mouth of the Merrimac will be put out to bid in the spring. The work would take place in the fall and winter. The damage to Reservation Terrace was not as severe as anticipated because the worst part of the storm occurred during low tide. Julia Godtfredsen will draft a letter that urges the Army Corp. to consider changes to the jetty that might reduce beach erosion.

**Open Space Agreements**

The license agreements with Matt Kozazcki and Jere Myette for the Cooper North Pasture and the Wet Meadows expired in December. The open space management group agreed to renew the ten-year agreements, which should be amended to state that the spraying of glyphosate is not allowed on City property. Fertilizer containing pesticides or herbicides is prohibited as well. Jere Myette has been asked to remove the no trespassing signs he placed along the trail. The Commission agreed to pay for new signage that would ask visitors to be respectful of private property.

Paul Healy moved to renew the license agreement for the Wet Meadows with Matt Kozazcki. David Vine seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes)

Paul Healy moved to renew the license agreement for the Cooper North Pasture with Jere Myette. David Vine seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes)

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

**City of Newburyport**

**Reservation Terrace Dunes**

**Request for Certificate of Compliance**

**DEP File #051-1050**

The request for a Certificate of Compliance for the dune stabilization project was withdrawn.

**6. Public Hearings**

Steve Moore moved to open the public hearings. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

**Jon-Eric White, City of Newburyport**

**Phillips Drive Neighborhood**

**Notice of Intent**

David Biancavilla represented the applicant, who is proposing improvements to the stormwater management system. A site visit took place on January 24. Work would take place within the wetland buffer at the end of Ryan Road and at the crossing of the culvert on Phillips Drive. The pavement on Ryan Road is in poor condition due to flooding. The existing system is undersized. The existing pipe would be replaced with a larger one that would capture surface water on the roadway and intercept ground water. The pipe would accommodate a 25-year storm, with climate change being taken into consideration.

The existing culvert on Phillips Drive is in good condition and is adequately sized for a 25-year storm. The culvert is at a low point in the roadway. The applicant is proposing to install a water quality unit on either side of the culvert.

Julia Godtfredsen said the neighbors were concerned about the blockage of the culvert on Hoyt's Lane. The DPS has removed the downed tree and debris. The culvert is now functional and the DPS will keep it clean.

Steve Moore moved to close the public hearing. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

**Robert Padellaro**

**23-25 Overlook Street**

**Notice of Intent**

**DEP File #051-1057**

Tom Hughes represented the applicant, who is proposing to remove an existing single-family home in the VE zone and replace it with a new single-family home on pilings. As requested at the previous meeting, additional detail on the planting areas were included on the plan. The driveway material would be clamshell or peastone and would extend under the building for parking.

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Steve Moore moved to close the public hearing. David Vine seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

**Mark Drago**

**3 Q Street**

**Amend Order of Conditions**

**DEP File #051-1036**

Tom Hughes and Lisa Mead represented the applicant, who is requesting that the Order of Conditions be amended to incorporate into the plans items that were installed without a permit. Work was done under an Enforcement Order to bring the site partially into compliance. The stones were removed from the planting beds and the at-grade wooden deck was removed. The non-compliant fence was replaced with compliant rail fence. The applicant has agreed to install 200 linear feet of snow fence in areas in which it would have the most environmental impact.

Under the Order of Conditions, a small garage was to be rehabilitated in its existing location in the V zone. The garage reportedly fell down after work began. The applicant is proposing to replace the garage with an accessory structure and deck that would be located outside of the V zone and would be elevated at least two feet above grade. The concrete that was under the old garage has been removed.

A Special Permit application must be submitted to the Zoning Board. The Commission will inform the ZBA that the proposed location of the accessory structure would be acceptable and its elevation on pilings would meet the performance standards.

The hearing was opened to comments from the public. Attorney Roger Turgeon said he represents Kim Richards at 4 P Street. He said his client opposes the construction of the accessory structure. The building would be closer to the property line and would block her views. The new structure would be considerably larger and taller than the previous structure. It would include a living area or work space and would be more substantial than a small garage. Joe Teixeira said this would be a matter for the Zoning Board.

The applicant must provide an updated Notice of Intent with revised alteration figures. The size of the patio as shown on the plan is to be reduced. A plant list must be provided. Tom Hughes said it is his intention to only include beach grass on the plan. If other native plant materials are to be added, a revised plan must be submitted before work begins. The wall that is a part of an Enforcement Order is currently shown on the amended plan. The labeling of the wall must be removed from the plans so as to not constitute its approval.

Steve Moore moved to continue the public hearing to the February 15 meeting. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

Steve Moore moved to close the public hearings. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

**7. Order of Conditions**

**Jon-Eric White, City of Newburyport**

### **Phillips Drive Neighborhood**

Paul Healy moved to issue an Order of Conditions for the Phillips Drive Neighborhood. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

### **Robert Padellaro**

#### **23-25 Overlook Street**

#### **DEP File #051-1057**

David Vine moved to issue an Order of Conditions for 23-25 Overlook Street with the standard Plum Island special conditions. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

## **8. Enforcement**

### **3 Q Street**

In 2015, an RDA was issued to John Powers of 163 Old Point Road to replace seven concrete blocks in the wall in front of his property. The RDA included a condition that the Conservation Administrator was to be immediately notified if additional work on the wall was necessary. Concrete and a bluestone veneer has been added to the wall. When Julia Godtfredsen asked Mr. Powers about the work, he said that water washes over the wall and soil was being pulled through its cracks. He and Mark Drago at 3 Q Street coordinated the addition of concrete and the bluestone veneer in an attempt to stabilize and reinforce the wall. The Conservation Administrator was not notified of the work and the continued maintenance of the wall was not a part of the RDA. A permit is required for any change to a coastal engineering structure. Mr. Powers was asked to attend the meeting but was not present.

Joe Teixeira said substantial changes were made to the wall. Some of the work appears to be aesthetic. The property owners ignored the regulations and conducted work without a permit or engineered design. A part of the wall is on City property and the City did not give permission for the modification of the wall. Paul Healy pointed out that if the veneer is not aesthetic, it should extend down to the depth of the concrete wall.

Lisa Mead said her client will commit to working with Mr. Powers to file a Notice of Intent. She will arrange a meeting with Julia Godtfredsen, Joe Teixeira, Jon-Eric White, Tony Furnari and Jamie Tuccolo.

Steve Moore moved to remove all items from the Enforcement Order except for the wall. Dan Warchol seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).

## **9. Other Business**

A special meeting to discuss possible amendments to the Ordinance and Regulations took place on January 24. It does not appear that any changes to the Ordinance would be needed. The Commission members would like to further discuss the requirements for a variance. Another meeting will be held on Tuesday, February 5 from 1:30-2:30.

## **10. Adjournment**

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Steve Moore moved to adjourn the meeting at 8:33 p.m. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Dan Warchol, yes; Paul Healy, yes; David Vine, yes; Steve Moore, yes).