

## **Newburyport Conservation Commission**

May 5, 2020

Online Meeting

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 Steve Moore, Joe Teixeira, David Vine, Dan Warchol and Paul Healy (joined at 6:55). Conservation Administrator Julia Godtfredsen and Planning Director Andy Port were also in attendance.

### **3. Minutes**

Steve Moore moved to approve the minutes of the February 18, 2020, meeting as amended. Dan Warchol seconded the motion. The motion was approved by a 4-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, absent).

Steve Moore moved to approve the minutes of the April 7, 2020, meeting as submitted. Dan Warchol seconded the motion. The motion was approved by a 4-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, absent).

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

#### **Plum Island Updates**

Julia Godtfredsen reported that a significant amount of damage from high tides and storms was done to the dune along Reservation Terrace. DPS cleared the streets and driveways of sand and placed it back on the dune. Mayor Holaday is working State legislators for any type of help that would mitigate the damage. People have been walking across the dunes to gain access to the beach. DCR has been instructed to postpone the installation of the Mobi mats, which is usually done around May 15. The MRBA has not been meeting.

#### **Gloria Braunhardt Bike Trail**

An informal discussion with Jerry Mullins was tabled to the May 19 meeting. Joe Teixeira reported Mr. Mullins agreed to a remove bridge that was illegally built over the Little River.

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

#### **Low Street Redevelopment, LLC**

251 Low Street

Request for ORAD Extension

Rich Kirby of LEC Environmental Consultants represented the applicant, who is requesting a 3-year extension of the ORAD. The ORAD was issued on May 20, 2014, and was extended on

Newburyport Conservation Commission  
May 5, 2020

April 5, 2017. On April 15, 2020, the boundaries of the BVW and IVW were reviewed and the ANRAD plan was updated. Scott Cameron reviewed the minor modifications that were made to the delineation. The most significant change involved a stormwater basin located to southeast of the paved parking lot. The basin was previously delineated as jurisdictional. It appears it was created for the purpose of stormwater management was removed from jurisdiction.

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

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

**Scott Harrington**

101 North Reservation Terrace  
Request for Certificate of Compliance  
DEP File # 051-0791

Michael Seekamp represented the applicant, who received a permit in 2008 to add a triangular extension to an existing deck on the second story of a single-family home. The Order of Conditions required that any lawn disturbed during construction would be replaced with beach grass. Mr. Seekamp said the staging was done on the gravel driveway and the lawn was not disturbed. Beach grass was planted in a 3' x 38' area on the side of the house as mitigation for the 76 square feet of shadow the deck extension causes. However, the deck is located over a gravel driveway and does not impact any resource areas. A monitoring period will not be required.

Paul Healy moved to issue a Certificate of Compliance for 101 North Reservation Terrace. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**Rob Ciampitti**

229 Northern Blvd  
Request for Determination of Applicability

The applicant is proposing to install 4' x 4' changing stall that would attach at two points to the house. The bottom of the stall would be two feet above grade.

Paul Healy moved to issue a Negative 2 Determination. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**6. Public Hearings**

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

**Paul Hogg, Harbormaster**

Northern Boulevard, Plum Island Point

Notice of Intent

DEP File #051-1026

Paul Hogg said the shed is to be raised so that at its lowest point it will be two feet above grade. Cables will be added if necessary to secure it. The work has been scheduled with Reeds Ferry.

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; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**George Haseltine, Windward Shaw**

149 State Street

Notice of Intent

DEP File #051-1029

Patrick Seekamp, represented the applicant, who is proposing to add a 23' x 45' loading dock to a building in the buffer zone of a pond. The addition would be situated on an area that is currently paved parking. The stairs on the back of the property would be removed. The dumpsters would be moved closer to the street and snow would be stored in the current location of the dumpsters. The area adjacent to the pavement would be seeded and managed until it has become established. The construction might result in a temporary impact to the buffer zone but there would be no additional permanent impacts. The application is proposing to control the knotweed on the site as mitigation. Mr. Seekamp said he does not think dewatering would be necessary.

An Activity and Use Limitation has been placed on the site due to the presence of contaminated soils. Soil is to be excavated for the footings for the addition. It would be stored on site and re-encapsulated when it is replaced. Few details on this part of the project are known at this time. An LSP would be responsible for a plan to manage the soils. The Commission members are concerned about air quality and that contaminants might enter the pond. The erosion control as proposed would not provide adequate protection. The applicant agreed to install a silt fence in addition to the proposed silt sock. A condition will require that information on the management of the soils shall be reviewed and approved prior to the start of work.

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

**Dan Mortell, Mass. Dept. of Conservation and Recreation**

0 Curzon Mill Road, Maudslay Flowering Pond

Notice of Intent

DEP File #051-1028

Alyssa Noyes and Anders Bjarngard of GZA described the plans to repair the dam at the Flowering Pond. The concrete spillway would be replaced in the same dimensions, the 12" low-level outlet pipe would be replaced with a 16" pipe in the same location and a new concrete headwall would be constructed within the pond. A portion of the downstream boulder wall and concrete core wall would be removed and replaced after the outlet pipe has been installed. The timber boards along the face of the dam would be replaced with a layer of stone and crushed

Newburyport Conservation Commission  
May 5, 2020

stone in the same footprint. A wooden footbridge would be constructed over the spillway to replace the pedestrian access along the top of the dam. Construction would take place in the fall and early winter. Ms. Noyes said the impacts to the resource areas are temporary and unavoidable. A variance is needed for the impacts to the no-disturb zone.

Steve Moore said he is concerned about the impact that the lowering of the water level in the pond would have on wildlife. He had recommended during the site visit that a herpetologist be consulted. He asked about the necessity of replacing the outlet pipe, which has not worked for many years. He also wants make sure an old grinding stone is not damaged during the construction process. Mr. Bjarngard said the water in the pond would not be lowered all the way and a pool would be maintained that the wildlife could use. The project could perhaps be phased so the work on the outlet pipe is done first and water could be restored to the pond. He said the outlet is standard for dams and is a safety issue. David Vine asked about the amount of soil that would be removed and how it would be stockpiled. Mr. Bjarngard said the scope of work has been reduced and the amount of excavation would not be great. The soil would be stockpiled to the east of the dam. The need for dewatering should be minimal.

The applicant has not yet received all of the necessary permits from other agencies but does not anticipate that the plans would be changed. Any changes must be submitted to the Commission and a modification must be requested for any significant changes.

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; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**Gregory Elliot and Candace McMahan**

12 54<sup>th</sup> Street

Notice of Intent

DEP File #051-1030

Michael Seekamp and John Sava represented the applicants, who are proposing to renovate a single-family house on Plum Island. A second story would be added above the existing structure and a 128 square-foot one-story addition would be constructed between the house and the deck. Mr. Seekamp said that the area being added to the footprint of the building is less than 25% of the existing living area and the cost of renovation is less than 50% of the value of the existing structure. The base flood elevation is at 9 and the first-floor elevation is at 12. The plans do not show the elevation of the lowest horizontal member, which must be at or above 11. The applicant will submit a plan showing the elevations. Beach grass is planned for the mitigation area. The applicant would be allowed to plant other types of native vegetation, provided the information is submitted to the Commission. 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; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**David Daly, The Daly Group**

8, 10, 12, & 18 Colby Farm Lane

Notice of Intent

DEP File #051-1031

Matt Hammer of Landplex Engineering described the plans for a subdivision on Colby Farm Lane. The property has been divided into three parcels. A single-family home with a separate access drive would be located on Lot 1. The remaining one and two family housing units would be constructed on Lot 2, which is on the upland portion of the property. A public playground and five parking spaces that would provide access for the open space trails across the street would be located on this lot as well. Lot 3 would contain 6.2 acres of open space. Included in the project would be a 5,297 square-foot restoration area.

The concerns of the Commission members were focused on Lot 1. In this area, some grading is proposed in the 25-foot no-disturb zone. In addition, the property extends into the no-disturb zone. Some of the lot is currently mowed lawn. The members are concerned that the owner would want to use the full extent of the property and would not be aware of the boundaries of the resource area. The Commission members indicated on the plan an acceptable location for the property line and asked the applicant to seek a waiver from the Planning Board to reduce the size of the lot. They also asked that a split-rail fence be added near the rear lot line to delineate the edge of the no-disturb zone.

Lisa Mead said a variance is being requested for the intrusion into the no-disturb zone. The proposed public benefits include the redevelopment of a truck farm, the restoration of the area to a less intense use that is consolidated on the uplands, the provision of an affordable housing unit, the removal of debris from the property, an improvement to utilities, the paving of Colby Farm Lane, the construction of a public playground that would be maintained by the condo association and the dedication of six acres as open space at the rear of the property.

The applicant must provide a revised plan that shows the new lot lines and the location of the fence and a new planting plan. Jon Eric White and Phil Christiansen have signed off on the plans but the Planning Board process has not been concluded. Paul Healy moved to continue the public hearing to the May 19 meeting. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**Holly MacDonald**

4 68<sup>th</sup> Street

Notice of Intent

DEP File #051-1032

Michael Seekamp represented the applicant and requested a continuance. Steve Moore moved to continue the public hearing to the May 19 meeting. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

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

## **7. Orders of Conditions**

### **Paul Hogg, Harbormaster**

Northern Boulevard, Plum Island Point

DEP File #051-1026

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

### **George Haseltine, Windward Shaw**

149 State Street

DEP File #051-1029

149 State

Paul Healy moved to issue an Order of Conditions for 149 State Street with the special conditions that: 1) prior to the start of work, the designated LSP shall provide a report and presentation to the Conservation Commission for review and approval that outlines the AUL conditions and restrictions for the site and the associated work plan for the management of the soils, 2) all work shall be done in accordance with the AUL and under the direction the LSP and 3) a silt fence shall be installed behind the proposed silt sock shown on the erosion control plan to better delineate the work zone and protect adjacent wetland. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

### **Dan Mortell, Mass. Dept. of Conservation and Recreation**

0 Curzon Mill Road, Maudslay Flowering Pond

DEP File #051-1028

Paul Healy moved to issue an Order of Conditions for 0 Curzon Mill Road, Maudslay Flowering Pond with the special conditions that 1) prior to the start of work, all other state and federal permits and approvals shall be completed and forwarded to the Conservation Commission and 2) if the water level in the impoundment of the flowering pond has not been restored to its original level by November 1 a plan for the protection of amphibians that is prepared by a certified herpetologist shall be presented to the Conservation Commission for review and approval. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

### **Gregory Elliot and Candace McMahan**

12 54<sup>th</sup> Street

DEP File #051-1030

Paul Healy moved to issue an Order of Conditions for 12 54<sup>th</sup> Street with the special condition that prior to the issuance of the Order of Conditions, the applicant shall submit an elevation plan showing the lowest horizontal member is at or above elevation 11. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

Newburyport Conservation Commission  
May 5, 2020

**Mark Drago**

3 Q Street

Paul Healy moved to issue an Order of Conditions for 12 54<sup>th</sup> Street with the special condition that if any changes are made to the plans, the applicant shall be required to provide updated appraisals to ensure that the project remains below the 50% threshold for significant improvement. Steve Moore seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).

**8. Adjournment**

Steve Moore moved to adjourn the meeting at 10:40 p.m. Paul Healy seconded the motion. The motion was approved by a 5-0 vote (Joe Teixeira, yes; Steve Moore, yes; David Vine, yes; Dan Warchol, yes; Paul Healy, yes).