

Newburyport Conservation Commission
June 1, 2021
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 Steve Moore, Paul Healy, David Vine, Joe Teixeira, Carole Wagan and Ron DiCola. Dan Warchol was absent. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the May 18, 2021, meeting. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

4. Old and New Business

Plum Island Updates

The next MRBA meeting is scheduled for June 4. On June 3, a meeting will take place on the findings of a study that addresses the economic and fiscal impacts of sea level rise on Plum Island.

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

ITW Shinemark

5 Malcolm Hoyt Road

Request for Determination of Applicability

Matt Steinel represented the applicant, who is proposing to install three concrete pads to support additional equipment necessary to the operation of the business. One of these pads would be outside of the 100-foot buffer zone and one would be within an area that is currently paved. A 16' x 25' pad would be located in an area that is currently lawn. As mitigation for the 400 square feet of impact, an existing concrete sidewalk adjacent to the building would be replaced with gravel. Three native trees would also be planted.

Paul Healy moved to issue a Negative 3 Determination with the conditions that three native trees shall be planted and an impervious walkway shall be replaced with a permeable material. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

Louisa Tanner and John Watkins

260 Northern Boulevard

Request for Determination of Applicability

Tom Hughes and Olympia Bowker represented the applicants, who are the owners of a property in the AO zone on which two single-family homes are located. The second floor of one of the structures would be expanded to add a staircase and master bathroom. The first floor would be reconfigured to add a third bedroom. An existing 101 square-foot deck would be reduced to 56 square feet. A new 37 square-foot covered entry with stairs would be added.

The house must be placed on pilings if the work is determined to be a substantial improvement. Attorney Bowker said the existing structure is 1,100 square feet. The 245 square feet that would be added would not result in an increase of living space greater than the 25% allowed under the regulations. The increase in living space would be 21% using the Assessor's data and 23.6% using the architect's measurements. Attorney Bowker also said the improvement would not increase the market value of the building by an amount greater than 50%. She said the appraised value of the existing structure is \$416,000 and the value of the home post-construction would be \$472,000. The Commission members asked for additional information on the methodology used for the appraisal. Only one structure is being improved, but the value of both structures was included in the appraisal calculations. The appraiser will be asked to provide clarification for the next meeting.

Steve Moore moved to continue the matter to the June 15 meeting. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

City of Newburyport

Reservation Terrace

Minor Modification to Order of Conditions

DEP File #051-1050

The Division of Fisheries and Wildlife submitted a letter stating the project area is within Piping Plover habitat and the project must be conditioned in order to avoid a prohibited Take of a state-listed species. The conditions to be included are: 1) work shall not occur between April 1 – August 31 unless otherwise approved in writing by the Division of Fisheries and Wildlife, 2) the sand excavated during the installation of the bottom tiers of the system shall be used as cover over the top tier of coir system, 3) beginning on April 1, a monitor shall determine if Piping Plovers are present at the site and shall install fencing and signage if needed, 4) as-built plans and photographs shall be submitted within ninety days of completion of work, and 5) the applicant shall receive a written response from the Division of Fisheries and Wildlife for any renewal, extension, or amendment of the Orders of Conditions and written authorization shall be obtained from DCR for work or construction access on its property. These conditions will be added to the Order of Conditions.

Paul Healy moved to amend the Order of Conditions. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

Robert Newman

19 Reservation Terrace

Request for Determination of Applicability

Julia Godtfredsen said the applicant is proposing to replace a 4' x 4' temporary egress platform and stairs with a 4' x 7' permanent egress with stronger supports on diamond pier footings. The applicant provided only a sketch of the proposed work, but filed more complete plans with the Building Department.

Paul Healy moved to issue a Negative 3 Determination with the conditions that the platform shall be no larger than 4' x 7', no concrete footings shall be used and the plans submitted to the Building Department shall be included in the filing. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

6. Public Hearings

Steve Moore moved to open the public hearings. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

Jack & Beverly Murphy

3 Marsh Street

Notice of Intent

Matt Steinel represented the applicant who is proposing to construction a 16' x 26.3' one-story addition on piles to a single-family home. The resource areas are land subject to coastal storm flowage, coastal dunes, barrier beaches, salt marsh and riverfront area. Most of the work would take place within the existing gravel driveway. Four existing junipers shrubs might be impacted by the construction. Five Rosa Virginiana would be planted on the river side of the structure as mitigation for the potential impact to these shrubs. The trees near the house would be pruned but not removed.

The applicant must provide a substantial improvement certification form. The plans show that the existing structure is 1,384 square feet and the addition would be 421 square feet. This would exceed the 25% threshold. Mr. Steinel said he believes he made an error in the dimensions. He calculated the increase as being 23.5%.

Steve Moore moved to continue the public hearing to the June 15 meeting. Ron DiCola seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

Steve Moore moved to close the public hearings. Ron DiCola seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

7. Order of Conditions

None

8. Enforcement

Gloria Braunhardt Trail

Work was done within the 25-foot no-disturb zone and 100-foot buffer zone without permission. Soil and grass seed were added along the old roadbed to narrow its width so it might be classified as a multiuse trail. The soil was taken from the sides of the roadbed, which has led to erosion. The soil must be replaced and seeded to prevent erosion. Birches had been previously cut and the trunks were left standing. The trunks are to be cut down to the ground. A bridge that was to be removed is still in place. Jerry Mullins agreed to take care of the work immediately. A site visit will take place on June 2 at 9:00 a.m.

Steve Moore moved to require the work to be done is completed by the end of June. Carole Wagan seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

9. Other Business

a) Regulations

There is currently no language in the regulations that would prevent a homeowner from segmenting work into different building permits to stay below the allowable thresholds. The amount of development is not cumulative. Some clarification could be added to the regulations without a change to the Ordinance. It could be indicated that a single owner could not make additional changes to a property within a certain period of time. The regulations should be consistent with the Zoning Ordinance. Members of the Zoning Board or Zoning Administrator Jennifer Blanchet could be asked to attend an upcoming meeting to discuss the issue. A public hearing would be held for the presentation of any changes to the regulations.

b) Pollinator Diversity

Steve Moore contacted a Professor from Umass Dartmouth about undertaking a pilot project on City property at Colby Farm. The professor would be willing to visit the area sometime in June.

c) Evergreen Commons

Julia Godtfredsen said a letter was received from residents at Evergreen Common. The developer agreed to install a fence at the boundary of the City property at the request of the Planning Board. Untreated water enters the City well and the fence would delineate the water supply protection area. The residents are not in favor of the fence but have been observed encroaching on the City property. It is inviting play area for children and some dumping has occurred, although the residents maintain this was done by a contractor. The Commission has a concern about adverse possession in addition to water quality. The area is currently being mowed because the boundary is not marked. A fence would allow the area to become naturalized. Signage could be added indicating that trespassing is not allowed on the water supply protection property.

Carole Wagan moved to respond to the letter and indicate the Commission is in support of the installation of a fence to demarcate the City property. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).

10. Adjournment

Steve Moore moved to adjourn the meeting at 8:31 p.m. Paul Healy seconded the motion. The motion was approved by a 6-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes).