

Newburyport Conservation Commission
June 7, 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 David Vine, Paul Healy, Joe Teixeira and Dan Warchol. Steve Moore and Carole Wagan were absent. Conservation Administrator Julia Godtfredsen was also in attendance.

3. Minutes

Paul Healy moved to approve the minutes of the May 17, 2022, meeting. David Vine seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

4. Old and New Business

Plum Island Updates

The next MRBA meeting is scheduled for June 10 at PITA Hall. The dredging project has been put out to bid. The bids will be opened on June 21. The work is expected to begin in September.

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

Massachusetts Department of Transportation (DOT)

Route 1 (Merrimack River Bridge)

Request for Determination of Applicability

Stephen Simoglou and Susan McArthur represented the applicant. The pavement markings on the Route 1 would be changed to provide accommodations for bicycles across the bridge. One travel lane would be converted to a 12-foot buffer and bike lane. Ramps with curbs would connect the proposed path to the existing-shared use path. The frames and grates of the existing catch basins would be replaced.

Most of the work would be considered an exempt activity within the buffer zone and riverfront area. The proposed ramps would not be exempt. They would be constructed within the riverfront area and the 100-foot buffer zone in an area that is currently grass.

No trees would be removed during construction. Erosion control would be installed to prevent sediment from leaving the area. Construction is expected to take place in the early fall and is being coordinated with Natural Heritage.

Paul Healy moved to issue a Negative 2 determination. Dan Warchol seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

6. Public Hearings

Dan Warchol moved to open the public hearings. Paul Healy seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

Raymond R. Kingman, Jr.

10 75th Street

Notice of Intent

DEP File #051-1060

Tom Hughes represented the applicant. He said the plans were revised to address the Riverfront standards, as was required by DEP. He said the project area qualifies as degraded riverfront. The driveway would be moved as far landward as possible. All outdoor space, with the exception of the driveway, would be planted. The proposal would result in a net reduction in the amount of degraded riverfront and a net increase of 790 square feet of vegetation.

David Vine moved to close the public hearing. Dan Warchol seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

Robin Wallace

4 79th Street

Notice of Intent

Lisa Mead represented the applicant, who is proposing to add an elevator and expand the living space of an existing two-family home in the AO zone. Joe Teixeira said he does not expect the application to be presented at this time, as the materials were not submitted by the filing deadline. In addition, the Zoning Board of Appeals must approve the application and it is possible that changes to the plan would be required. Attorney Mead agreed to a continuance of the hearing.

Devon Morse of Hancock Associate described the proposed changes to the structure. On the north side of the structure, an existing 174 square-foot deck that is located over concrete would be removed and an elevator shaft would be constructed in its place. The existing first and second-story decks are to remain, as are the koi pond, the lawn and the non-native plantings. A third story would be constructed above the existing second-story deck. The existing attic storage would be converted to living area. The deck would be expanded and cantilevered over an area that is currently lawn.

On the south side, an existing second-story deck would be retained. A new second-story deck would be constructed over the existing gravel driveway on the opposite side of the structure.

Attorney Mead said the proposed changes are necessary to provide reasonable accommodations to an individual with a handicap. She said the proposal meets the ADA and FHA standards, and also those of a Variance. Most of the lot is manicured lawn and the movement of sand would not be impacted. Alternatives are not possible due to the closeness of the adjacent properties. The overriding public interest would be the compliance with federal law and allowing a person with disabilities to live in a home of his choice.

Attorney Mead went on to say the ADA overrides the local ordinance. The individual has a disability, and the installation of an elevator and the construction of living space are necessary accommodations to meet his needs. The living area would be increased 93 square feet over the 25% increase that is allowed and 66 square feet of this would be related to the elevator. A total of 557 square feet of habitable space would be added. The current value of the property is \$620,000. The appraised value would be \$870,930 after construction, an increase of 40.3%. As mitigation for the impacts to the resource area, 142 square feet of native shrubs and beach grass would be planted.

Joe Teixeira said he had difficulty finding the Variance information and it was not a part of the material available to the public. Dan Warchol said the material was not submitted in time for him to be able to review it. David Vine said he does not see an issue with the application based on the presentation. He will review the Variance materials. Paul Healy said adherence to the ADA laws would serve a public good. Julia Godtfredsen said a public hearing usually not opened when the material was not submitted by the filing deadline. The materials were received one week and three days late. She added that KP Law has advised that the proposal would not be exempt from the local ordinance and the process must be followed. Information on the elevator must be added to the plans.

The hearing was opened to comments from the public. Kathleen Wise, 11 82nd Street, said the area on the plan that is labeled as driveway is actually 79th Street. The lack of parking is also an issue. Joe Teixeira said these are matters for the ZBA to address.

Lela Wright, 55 Reservation Terrace, said she supports the application. Residents should be able to modify their homes as they choose.

Dan Warchol moved to continue the public hearing to the June 21 meeting. David Vine seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

Dan Warchol moved to close the public hearings. Paul Healy seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

7. Order of Conditions

Raymond R. Kingman, Jr.

10 75th Street

DEP File #051-1060

David Vine moved to issue an Order of Conditions with the special conditions that 1) immediately after the demolition of the existing home, all demolition-related debris shall be removed from the site and disposed of properly off of the island, 2) any voids in the dune may be filled with beach-grade sand to level the area and 3) after demolition and prior to construction, the applicant shall present to the Commission evidence that the site conditions have not changed to a significant degree that would require changes to the plans. Dan Warchol seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

8. Enforcement

3 Q Street

A certified coastal structural engineer determined that the modifications to the seawall were not detrimental to the wall itself or the adjacent coastal resource areas. The Mayor's office and Department of Public Services have reviewed the engineering report and are in agreement that no further action is required at this time.

Dan Warchol moved to sign the Enforcement Order release. Paul Healy seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).

9. General Business

Joe Teixeira thanked Paul Healy for his 36 years of service to the Commission. A new representative to the CPC will be needed.

10. Adjournment

Paul Healy moved to adjourn the meeting at 8:33 p.m. Joe Teixeira seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Paul Healy, yes; Dan Warchol, yes; Joe Teixeira, yes).