

**Newburyport Conservation Commission**  
**June 15, 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, Ron DiCola and Dan Warchol. Conservation Administrator Julia Godtfredsen was also in attendance.

**3. Minutes**

Paul Healy moved to approve the minutes of the June 1, 2021, meeting. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**4. Old and New Business**

**Evergreen Commons**

Tom Hughes responded point by point to the concerns raised in a letter from the Homeowners Association. He said the grading is flat in some areas and ponding has occurred. The developer will adjust the grades so that the ponding does not occur in the residential lots. He said the trees in the open space will tolerate brief ponding. Some trees that were planted incorrectly did not survive and have been replaced. There have been no major erosion events in the common area. There has been some settling at the bridge and new material will be added.

William Brown said it is the job of the developer to install bark mulch around the trees and to remove the phragmites. He said the drainage problem between lots 36 and 37 continues to occur. He does not expect the concerns raised in the letter to be addressed during the meeting but asked that the Commission addresses them during the approval process. Julia Godtfredsen thanked him for his comments and said a site visit would take place prior to the issuance of the Certificate of Compliance.

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

**Jonathan Miller**

8, 10, 12, 18 Colby Farm Lane  
Request for Minor Modification  
DEP File #051-1031

Matt Hamor represented the applicant, who is proposing to add a 12' x 12' sunroom and 11' x 12' deck with stairs at the rear of the house on Lot 1. The addition would be located outside of

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the 25-foot no-disturb zone and would be placed on sonotubes at grade in an area that was to be lawn.

Dan Warchol moved to approve the Request for Minor Modification. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**Claus and Sue Kjaer**

19 Frances Drive

Request for Minor Modification

DEP File #051-1043

An Order of Conditions was issued in November 2020 for a project that included the construction of a 20' x 56' two-level deck at the rear of a single-family home. The applicant is proposing to install an at-grade patio in place of the lower level of the deck. The footprint of the deck would not change. No information was provided on the material to be used for the proposed patio. The applicant will be asked to attend the next meeting.

Steve Moore moved to continue the matter to the July 6 meeting. David Vine seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**Louisa Tanner and John Watkins**

260 Northern Boulevard

Request for Determination of Applicability

Lisa Mead 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 preconstruction value of the structure was determined to be \$416,000. The post-construction market value would be \$472,000, which would be an added market value of \$56,000. At the previous meeting, the Commission members asked for clarification on the appraisal. Attorney Mead said 60% of the appraised value of the property was attributed to the buildings and of this, 70% was attributed to the structure that is to be modified. The post construction figure would increase to 74.9% due to the increased square footage.

Some of the Commission members questioned the methodology of the appraisal. A portion of the increase in market value is being attributed to the second structure, even though no work would be done to it. It would seem likely that increasing the square footage, replacing the roof, windows and siding and constructing a master bathroom and covered entry would increase the market value of the structure more than \$56,000. Attorney Mead said that the value of the work does not proportionally increase the value of the structure. While the addition of a second bedroom on the first floor would add some value to the structure, the square footage would not increase. The condition of the master bedroom is already very good, and its improvement would

not add value. A portion of the increased square footage is related to the replacement of the spiral stairs with code compliant stairs.

Some of the members were in favor of a peer review, while others thought it would not be effective. While a different methodology might be more accurate, it seems unlikely the improvements would increase the market value more than 50%.

Steve Moore moved to not require a peer review. Paul Healy seconded the motion. The motion failed by a 3-4 vote (Steve Moore, yes; Paul Healy, yes; David Vine, no; Joe Teixeira, no; Carole Wagan, no; Ron DiCola, no; Dan Warchol, yes).

The City Assessor will be consulted about the appraisal methodology. David Vine moved to continue the matter to the July 6 meeting. Ron DiCola seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

## **6. Public Hearings**

Dan Warchol moved to open the public hearings. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

### **Lorraine and Michael Riley**

2 Spofford Street  
Amend Order of Conditions  
DEP File #051-0972

The applicant requested a continuance to the next meeting due to a problem with abutter notification. Paul Healy moved to continue the public hearing to the July 6 meeting. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

### **Jack & Beverly Murphy**

3 Marsh Street  
Notice of Intent  
DEP File #051-1051

Matt Steinel represented the applicant, who is proposing to construct an addition to a single-family home. A Substantial Improvement Determination Form has been submitted, as was requested at the previous meeting. Mr. Steinel said that the cost of the work is estimated at \$104,500, which is less than 50% of the assessed value of the structure. He also said the project would increase the amount of living area by less than 25%. The Assessor's records list the structure as being 1,788 square feet, which does not include the ground floor. Using this figure, the project would increase the living area 23.5%. When the ground floor square footage is added to the calculation, the increased living area would be 16.8%. The applicant has agreed to remove the existing 189 square-foot shed to reduce the environmental impact to the site. The applicant would be willing to plant native vegetation in the area and remove the portion of the pavers that led to the shed. The pavers that lead to the backyard will be retained. The applicant will submit

revised plans that show the vegetation that is to be installed and the pavers that are to be removed.

Steve Moore moved to close the public hearing. Paul Healy seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**Priscilla Geigis, Mass DCR**

North Reservation Terrace

Notice of Intent

DEP File #051-1052

David Smith of GZA represented the applicant, who is proposing to place sand dredged from the Merrimack River on the beach near Reservation Terrace, where the dunes have been severely eroded. The Army Corp plans to remove 290,000 cubic yards of material from the federal channel in 2021 or 2022. Of this, 125,000 cubic yards would be placed on the beach to protect the jetty. The remaining 165,000 cubic yards would typically be deposited off shore. A Section 204 study determined that the use of the dredged sand on the beach near Reservation Terrace would be beneficial. The dredged material will be 96% sand and will be compatible with that on the beach. DCR, as the non-federal sponsor of the Section 204 beneficial use portion of the project, is responsible for local permitting. The work of the Army Corp is exempt from local permitting. The MEPA certificate is expected by June 25.

The pathway from the parking lot would be used to access the beach. The exiting Mobi mats would be removed and the construction equipment would be driven across the sand. The fencing would be removed to widen the path.

DCR intends to plant the dune after construction but the work is not a part of this permit. There is a need to complete the local permitting quickly to be on track with the Army Corp schedule. The local permitting must be completed before the Army Corp puts the project out to bid. The dredging and beach nourishment should be completed by the spring and the planting would not take place until the following fall. The plan would be comprehensive and would include beach grass and other native vegetation. It would be designed for both dune stabilization and habitat value. A special condition could be added to the Order of Conditions that would allow the work to take place without additional permitting. The plan would be submitted for approval immediately prior to planting and would include fencing.

The hearing was opened to comments from the public. Mark Wright said he wants the project to move forward as fast as possible.

Steve Moore moved to close the public hearing. Ron DiCola seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

Steve Moore moved to close the public hearings. Paul Healy seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**7. Order of Conditions**  
**Jack & Beverly Murphy**

3 Marsh Street

DEP File #051-1051

Paul Healy moved to issue an Order of Conditions with the special conditions that 1) the applicant shall plant vegetation in the area from which the existing shed is to be removed and 2) prior to the issuance of the Order of Conditions, the applicant shall provide a revised plan showing the removal of the unnecessary pavers leading to the shed. Dan Warchol seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**Priscilla Geigis, Mass DCR**

North Reservation Terrace

DEP File #051-1052

Paul Healy moved to issue an Order of Conditions with the special conditions that 1) the applicant shall provide documentation on the condition of the access pathway from the parking lot to the beach prior to construction and any damage to the dune vegetation associated with the pathway shall be mitigated through the replanting of American beach grass in the season immediately following construction and 2) the applicant may install sand fencing and establish native plantings in the project area to help stabilize the dune after nourishment in accordance with a planting and fencing plan to be reviewed and approved by the Commission. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**8. Enforcement**

**Gloria Braunhardt Trail**

Jerry Mullins attended the June 1 meeting to discuss an Enforcement Order that had been issued to him for work within the resource area. He has since installed signage within the buffer zone without a permit. The Adopt-a-Trail signs are used for fundraising purposes. The signs are on City property, yet City approval was not sought for their installation. He had been asked by Mayor Holaday to stop work on the trail.

Paul Healy moved to authorize the Chair to send a letter to the Mayor informing her of the installation of the signage and recommending that the part of the agreement between the City and the Parker River Clean Water Association related to the maintenance of the bike trail be suspended while other options are explored. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).

**9. Other Business**

The shed at the Plum Island Parking Lot has not yet been elevated to be two feet above grade at its lowest point.

**10. Adjournment**

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Paul Healy moved to adjourn the meeting at 9:33 p.m. Steve Moore seconded the motion. The motion was approved by a 7-0 vote (Steve Moore, yes; Paul Healy, yes; David Vine, yes; Joe Teixeira, yes; Carole Wagan, yes; Ron DiCola, yes; Dan Warchol, yes).