

Newburyport Conservation Commission
July 5, 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, Joe Teixeira, Dan Warchol, Steve Moore, Carole Wagan and Charlie Aloviseti.

3. Minutes

Steve Moore moved to approve the minutes of the June 7, 2022, meeting. David Vine seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Dan Warchol, absent; Joe Teixeira, yes; Carole Wagan, yes; Steve Moore, yes; Charlie Aloviseti, abstain).

4. Old and New Business

Plum Island Updates

Two bids were received for the project to dredge the mouth of the Merrimack River.

Newburyport Development, Brown's Wharf

Paul Avery said the boat storage has been removed from the wharf adjacent to the Tuscan Grille. The wharf was resurfaced with white stone. A food truck and a shipping container that would serve as a bar have been installed. Picnic tables and Adirondack chairs have been added, along with containers that hold posts supporting string lights. Operations will not begin until approval has been received. A Notice of Intent was filed on July 1. The item will be on the agenda of the July 19 meeting. Information on Chapter 91 approval will be presented at that time.

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

The Daly Group

3-7 Colby Farm Lane and 181-183 Low Street

Request for Certificate of Compliance

DEP File #051-1015

The applicant requested a continuance. Dan Warchol moved to continue the matter to the July 19 meeting. Carole Wagan seconded the motion. The motion was approved by a 5-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Carole Wagan, yes; Steve Moore, yes; Charlie Aloviseti, abstain).

Gary Swerling
3 Opportunity Way
Request for Certificate of Compliance
DEP File #051-0928

Matt Steinel of Millennium Engineering represented the applicant. He said the addition on the street side of the building was completed about five years ago. An as-built plan showing the building was constructed according to the approved plans was prepared in 2017. The applicant was unaware of a planting plan for the area along the street and between the building and the wetland. The plantings along the street have been in place for approximately five years. The applicant has contacted a landscaper to obtain a quote for the planting along the side of the structure. The applicant is seeking to refinance the property and is requesting a Partial Certificate of Compliance at this time. He is willing to post a bond for the plantings.

Steve Moore moved to issue a Partial Certificate of Compliance for 3 Opportunity Way with the condition the applicant shall submit a cash payment to be held by the City in the amount of the quote for the remaining plantings. Carole Wagan seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Carole Wagan, yes; Steve Moore, yes; Charlie Aloviseti, yes).

6. Public Hearings

Carole Wagan moved to open the public hearings. Steve Moore seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Carole Wagan, yes; Steve Moore, yes; Charlie Aloviseti, yes).

Robin Wallace
4 79th Street
Notice of Intent
DEP File #051-1062

Carole Wagan recused herself from the matter. Lisa Mead and Devon Morse represented the applicant, who is proposing to expand the living space of an existing two-family home in the AO zone and add an elevator. The applicant provided updated plans and supplemental documents in response to comments made at the previous meeting.

The elevator will have no pit but must have some open area beneath it. A hole will be cut in the existing deck. The deck is located approximately 24 inches above an area that is currently paved. A ramp will be installed leading to the deck and the elevator door.

The applicant is proposing to add more than 25% to the existing square footage of living space, which requires a Variance. Attorney Mead said it has been demonstrated that the family member of the applicant has a disability and the additional living space is necessary to accommodate the needs of that individual. Of the 93 square feet that would exceed the 25% allowable, 63 square feet would be related to the elevator and 30 square feet would be additional living space needed to allow the individual to reside in the structure. As mitigation, the applicant would replace 142 square feet of existing non-native materials with native plantings.

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

Jon-Eric White, Department of Public Services
239 Storey Avenue
Notice of Intent
DEP File #051-1062

Tracy Adamski represented the applicant, who is proposing to install a stone foundation along the spillway of the Lower Artichoke Dam. The existing spillway is three feet lower than the current 100 year flood elevation. The elevation of the spillway makes it susceptible to a backwater event. Water could flow from the Merrimack River to the Artichoke River and over the spillway into the dam. The City's water treatment plant is not designed to handle the brackish water and pollutants that would then enter the drinking water supply. Super sacks would be installed on the foundation in the event of a storm surge. Ramps would be installed to provide access to the foundation. A backhoe with a front-end loader would position the super sacks in two rows along the foundation. The filling of the sacks would take place outside of the resource area. The resource area that would be impacted is 100 feet of bank, 1,800 square feet of land under water and 108 cubic feet of bordering land subject to flooding. The applicant is requesting that the work be considered a limited project for the maintenance, repair and improvement of an existing dam or reservoir.

The work would be a temporary solution for an emergency situation. The City is working with Tighe & Bond on a design for the raising of the dam and spillway.

The majority of the work would take place in West Newbury. No major tree clearing would take place in Newburyport.

Steve Moore moved to close the public hearing. Carole Wagan seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, yes; Carole Wagan, yes).

Steve Moore moved to close the public hearings. Dan Warchol seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, yes; Carole Wagan, yes).

7. Order of Conditions

Robin Wallace
4 79th Street
DEP File #051-1062

Dan Warchol moved to issue a Variance for 4 79th Street with the public benefit of allowing a person with disabilities to live in a home of his choice. Steve Moore seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, abstain).

Dan Warchol moved to issue an Order of Conditions for 4 79th Street with the standard Plum Island special conditions. Steve Moore seconded the motion. The motion was approved by a 4-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, abstain).

Jon-Eric White, Department of Public Services
239 Storey Avenue
DEP File #051-1062

Steve Moore moved to issue an Order of Conditions for 239 Storey Avenue. Dan Warchol seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, yes; Carole Wagan, yes).

8. Old and New Business Continued

City of Newburyport, Central Waterfront Park Improvements

Marin Braro and Stephanie Krueel of Sasaki Associates described the plans for the expansion of the waterfront park. The goal is to make the park an active and inclusive destination throughout the seasons.

The amount of impervious surface would be reduced and the number of vegetated areas would be increased. The parking areas would be made smaller and the lawn area would be extended. Contaminated soil would be removed and fill would be added to raise the grades. New pathways and plazas would be constructed and trees would be added. A new visitor center would be built outside of the resource area. The Ways to the Water would be maintained and new Ways would be created. The shared-use path would join with the Rail Trail on either side of the park and would not be elevated.

A Notice of Intent will be submitted. The impacted resource areas would be buffer to a coastal bank, 200-foot riverfront area and land subject to coastal storm flowage.

The work would be done in phases. CPA funds are being sought for the first phase of the park construction, which could begin next year. Stormwater management would be a part of each phase.

Andy Port said there is no plan to change the grades near the sculpture garden. Steve Moore commented that this would be a lost opportunity, as the area is prone to flooding.

9. Adjournment

Steve Moore moved to adjourn the meeting at 8:33 p.m. Carole Wagan seconded the motion. The motion was approved by a 6-0 vote (David Vine, yes; Dan Warchol, yes; Joe Teixeira, yes; Steve Moore, yes; Charlie Aloviseti, yes; Carole Wagan, yes).