

Newbury Conservation Commission - Public Meeting Minutes
April 4, 2023

Members Present:

- ☒ Bob Connors (Chair)
- ☒ Mary Rimmer (Vice Chair)
- ☒ Peter Paicos (Planning Board Liaison)
- ☐ Brad Duffin
- ☒ Dianne O'Brien
- ☒ TJ Conte
- ☒ Samantha Holt (Agent)

7:01 p.m. Meeting Called to Order

- Opening remarks from Conservation Agent Samantha Holt
- Minutes Review:
 - Commission members reviewed minutes from 3/21/2023. Peter Paicos recused himself from the vote and discussion. Mary Rimmer requested one edit. ***Motion by TJ Conte to approve the 3/21/2023 minutes as drafted; seconded by Dianne O'Brien; vote 5:0:0.***
- Samantha Holt provided an update on three public hearings that were originally scheduled to be opened tonight (Salt marsh invasive species management RDA, 6 Olga Way NOI, and 3 Newburyport Turnpike OOC amendment). Due to an administrative error in the legal ads, we are unable to open the hearings for these projects and they are being postponed to the 4/18/2023 meeting, pending readvertisement.

CERTIFICATES OF COMPLIANCE

16 Old Farm Way (DEP File #050-0336) Cheryl Remley (Applicant)

- Exhibits: Order of Conditions for 16 Old Farm Way, Request for Certificate of Compliance for 16 Old Farm Way
Samantha Holt presents a request for a complete CoC for work to construct a new house with associated site work including construction of a pond. Aside from the recorded OOC and some building permits, there were no records available for this project as the file was likely one that needed to be destroyed due to flood damage. An inspection was completed on 3/28/2023, and Ms. Holt noted that it appeared the work was completed in compliance with the description available in the OOC. ***Motion by Peter Paicos to issue a complete Certificate of Compliance; seconded by Mary Rimmer with the added request to attach a letter advising the owner of jurisdictional area where the pond was constructed; vote 5:0:0.***

MODIFICATION

68 Green Street, Lot 2 (DEP File #050-1391) Michael Dos Santos (Applicant)

- Exhibits: Order of Conditions for 68 Green Street, Lot 2; Request for Minor Modification for 68 Green Street, Lot 2 with attachments
Samantha Holt presents a request for a minor modification to the OOC issued 8/18/2022 for 68 Green Street, Lot 2 for revised grading plan and addition of a retaining wall in the Buffer Zone. Mr. Dos Santos outlined the reason for the revision. Commission members had an opportunity to discuss the request. Mary Rimmer noted that a revision of this kind would typically require a full amendment since the plan of record will be changing. ***Commission members unanimously agreed that this change needed to be made through the amendment process, Mr. Dos Santos agreed to resubmit under that process.***

ADMINISTRATION

Middle Road (DEP File #050-1401) The Governor's Academy c/o Tom Woodruff (Applicant)

- Exhibits: Notice of Intent for Middle Road/TGA with attachments; Order of Conditions draft for Middle Rd/TGA

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Samantha Holt noted that the public hearing for this project was closed at the 3/21/2023 meeting and this discussion was to go over the drafted OOC and special conditions. The draft OOC was provided to Mr. Woodruff and his team for review, Ms. Holt outlined changes made based on several returned comments. Conditions were revised based on discussions between the Applicant and the Commission. During the discussion it was mentioned that comments were posted in the DEP Data Portal after the public hearing was closed. Commission members and the Applicant's team agreed to ensure the DEP comments were addressed prior to finalizing the Special Conditions. Mr. Woodruff agreed to waive the requirement to have an OOC issued within 21 days of closing the public hearing in the interest of ensuring all comments are addressed prior to issuance. **Commission members unanimously agreed to table the discussion on the OOC and special conditions until the 4/18/2023 meeting, Mr. Woodruff and his team agreed – discussion tabled.**

ENFORCEMENT ORDERS

20 Northern Boulevard (File #NCC-418)

Jody Latimer (Applicant)

- Exhibits: Negative Determination of Applicability for 20 Northern Boulevard, Enforcement Order for 20 Northern Boulevard with attachments

Attorney Douglas Deschenes is present to discuss the Enforcement Order. Atty Deschenes outlined a draft EO with conditions he provided prior to the meeting. Bob Connors outlined a letter received with recommendations from Town Counsel. Commission members had an opportunity to discuss the EO. Mary Rimmer noted that she believed dealing with this issue with an EO is inappropriate and that this requires a new filing to cover the current scope of work as well as the EO to cover any required restoration of disturbed dune area. Dianne O'Brien noted that requiring a new filing would result in the same requirements and conditions that have been proposed in the EO and believes that requiring a new filing would extend the process unnecessarily. Questions were raised regarding impact to the dune/vegetation and if amending the original Negative Determination of Applicability is an option. Samantha Holt noted that, in the letter received from Town Counsel, it stated that the Applicant must reapply for a new RDA or NOI to cover the altered scope of work. Revisions were made to the draft EO and conditions provided by Atty Deschenes, conditions were added requiring pre- and post-construction photographs, weekly reports to be submitted to the NCC/Agent, and that no materials or equipment shall enter or be placed on the dune area. **Motion by Dianne O'Brien to adopt the Enforcement Order as drafted by Atty Deschenes and revised by Commission members; seconded by TJ Conte; vote 4:1:0.**

ADMINISTRATION

Samantha Holt noted that the last time an extension was granted allowing public bodies to continue holding virtual public meetings/hearings a vote was held on whether the Commission would remain in virtual meetings. The most recent extension was granted to allow virtual meetings through March 31, 2025. **Motion by Peter Paicos to remain in virtual meetings until the current extension expires; seconded by Dianne O'Brien; vote 5:0:0.**

Commission members also held a brief discussion regarding site visits and comments for the public hearings originally scheduled for tonight. No site visits were scheduled, Commission members were advised that the required site visit authorization form allows members and agents of the Commission to enter the site for inspections within reason regardless of scheduled site walks.

Meeting adjourned at 9:33 p.m.
Respectfully submitted,
Samantha Holt, Conservation Agent