

Newbury Conservation Commission - Public Meeting Minutes
April 5, 2022

Members Present:

- ☒ Brian Colleran (Chair)
- ☒ Benjamin Gahagan (Co-Chair)
- ☒ Peter Paicos (Planning Board Liaison)
- ☒ Mary Rimmer
- ☒ Dan Streeter
- ☐ Frank Wetenkamp
- ☒ Samantha Holt (Agent)

7:02 p.m. Meeting Called to Order

- Opening remarks from Commission Chair Brian Colleran
- Minutes review: the 3/15/2022 minutes were not completed. Motion by Mary Rimmer to accept the minutes as written for 3/1/2022; seconded by Dan Streeter; vote 5:0:0

PUBLIC HEARINGS

81 Central Street, Central St Fields (File #NCC-389) Town of Newbury (Applicant)

- Exhibits: Request for Determination of Applicability for Central St Fields with all attachments
- Mark Sandt (Newbury Recreation Committee) and Jack Rybicki (Larkin Road) are present to discuss the Request for Determination of Applicability for work to replace a 5-foot by 10-foot steel plate used for brook crossing with a footbridge in the same location. Samantha Holt noted that funding to get plans developed for the project is an ongoing issue, but would be the responsibility of the Newbury Recreation Committee. Mary Rimmer noted that she and Ms. Holt had visited the property and agreed that it needs to be delineated and flagged, and that getting construction plans showing the wetland resources and bridge specifications would be necessary for the process. Motion by Peter Paicos to continue the hearing to 7:00 PM on 6/7/2022; seconded by Mary Rimmer; vote 5:0:0

68 Hanover Street (File #NCC-393) Julia O'Connor (Applicant)

- Exhibits: Request for Determination of Applicability for 68 Hanover St with all attachments
- Michael Colburn (representative) presents a Request for Determination of Applicability for work to excavate a pipe to locate connection to the footing drain in order to repair and restore drain function from the basement. Mr. Colburn outlined the issue and proposed work. Samantha Holt noted that there is a 3-D rendering of the area in question, as well as several photos provided by the contractor, and several screenshots from the MassMapper system showing the mapped resources in the area. Ms. Holt also noted that the drain pipe daylights approximately 50-feet from the wetland boundary but does not drain directly into the wetlands. Mr. Colburn noted that the pipe would be excavated and replaced in kind, and that no trees will be removed but that the disturbed grass will be reseeded. Motion by Mary Rimmer to issue a negative Determination of Applicability with the condition that erosion controls should be placed immediately downgradient of the existing pipe prior to excavation, and that the pipe should be replaced with another of the same size as the existing pipe; seconded by Peter Paicos; vote 5:0:0

42 Middle Road (DEP File #unassigned) Martin Pitasi (Applicant)

- Exhibits: Notice of Intent application for 42 Middle Rd with all attachments
- Kristan Farr (representative) presents a Notice of Intent for work to construct a single-family home with a septic system and wetland crossing for driveway installation, including wetland restoration and mitigation work. Ms. Farr outlined the current conditions on the site and the proposed work, including impacts to wetlands on-site and replication plans. Commission members had an opportunity to discuss the project. Questions were raised regarding the possibility of the existing pond being a vernal pool. Ben Gahagan requested to have the 50-foot and possibly the 25-foot buffer zones lines noted on the plans. A site walk was scheduled for Monday, April 18, 2022 at 5:00 PM. Ms.

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Farr confirmed that they plan to have the filings completed with the Board of Health and the Planning Board prior to the next hearing date. Debbie and Bill Higgins of 13 Highfield Road (abutters) are present and raised several concerns which will be addressed during the process with the Planning Board. Motion by Peter Paicos to continue the hearing to 7:00 PM on 5/3/2022; seconded by Mary Rimmer; vote 5:0:0

7 Bittersweet Lane (DEP File #unassigned) Gage Foley (Applicant)

The Applicant has requested a continuance. Motion by Ben Gahagan to continue the hearing to 7:00 PM on 5/3/2022; seconded by Peter Paicos; vote 5:0:0

10 10th Street (DEP File #050-1378) Ben Legare (Applicant)

The Applicant has requested a continuance. Motion by Dan Streeter to continue the hearing to 7:00 PM on 5/3/2022; seconded by Mary Rimmer; vote 5:0:0

0 Pine Island Road/Lot 5 (DEP File #050-1330) David Manty (Applicant)

The Applicant has requested a continuance. Motion by Dan Streeter to continue the hearing to 7:00 PM on 5/3/2022; seconded by Peter Paicos; vote 5:0:0

COMMISSION DISCUSSION ITEM

Extensions

170 Orchard Street (DEP File #050-1254) MPM Companies, LLC (Applicant)

- Exhibits: Order of Resource Area Delineation for 168 Orchard St with all attachments, extension permit request for 170 Orchard St with all attachments and revised plans

Bill Manuell (representative) presents a continued request to extend an Order of Resource Area of Delineation. Mr. Manuell outlined the revisions that were made to the originally approved ORAD plans based on multiple site walks and comments from the Commission. Changes included updating the property owner, property address, and several wetland flags that were either moved or added during the site walks. Mary Rimmer noted that the extension should reflect that none of the wetland lines northwest of the E-series wetland line were confirmed, and that there are unmapped wetlands extending west from wetland flag E14. Motion by Mary Rimmer to approve the extension request for three years with the modifications as discussed; seconded by Peter Paicos; vote 5:0:0

PUBLIC HEARING

5 Cinder Avenue (DEP File #050-1379) James & George Simas (Applicant)

- Exhibits: Notice of Intent application for 5 Cinder Ave with all attachments

Matt Steinel (representative) presents a continued Notice of Intent for work to demolish the existing single-family home and construct a new one on a pile foundation with associated site work. Mr. Steinel outlined the project and changes made to the original plan. Revisions included adding grading information in the driveway area and addition of proposed tree plantings and details. Mr. Steinel noted that he believes that the comments from DEP have been addressed. Commission members had an opportunity to discuss the project. Questions were raised regarding the addressing of the DEP comments, and requested that a table be included on the plans showing the calculations of impervious surface on the property pre-demolition and post-construction. Mary Rimmer also requested more additional plantings to the proposal. Motion by Mary Rimmer to continue the hearing to 7:00 PM on 5/3/2022; seconded by Ben Gahagan; vote 4:0:0

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COMMISSION DISCUSSION ITEMS

Enforcement Issues

48 Green Street

Michael Hatheway (Owner)

Samantha Holt presents information regarding a potential enforcement issue at 48 Green St. Ms. Holt noted that, while reviewing the submittal for 7 Bittersweet Ln, a DEP analyst noticed several areas on the property at 48 Green St that appeared to have unpermitted work done on them sometime between 2008 and 2012 (based on historic aerial imagery). These areas include a large area of clearing on the western portion of the property, a small circular pen on the northernmost corner of the property, and a barn just to the south of that pen. According to the DEP analyst, if the water body on the Bittersweet Ln property is to be presumed as a perennial stream (as mapped by USGS), then much of the area in question is located within the 200-foot riverfront area, the 100-foot buffer zone to Bordering Vegetated Wetland, and the circular pen is located fully or partially within the BVW. Ms. Holt also raised the question of whether there was a violation of the Town of Newbury Stormwater Regulations based on an estimation of approximately 1 acre of tree clearing on the western portion of the property. Mary Rimmer noted that it would be beneficial to conduct a site walk on the property, and to wait for investigations into the flow of the stream on the Bittersweet Ln property to be completed. Michael Hatheway (owner) is present to discuss the matter, and outlined a brief history of the property and the work in question. Mr. Hatheway noted that the barn was constructed in 2008 with the necessary building permits and at the time there were no concerns raised for it. He also noted that the clearing to the west and pen to the north were both created in areas that had been used historically by his grandparents, and that the clearing was only necessary after a few years of overgrowth due to lack of maintenance. Ms. Rimmer noted that, should the stream on the Bittersweet Ln property be proven intermittent, there is a 3-year statute of limitations of buffer zone work, which we would now be well outside of. If the stream remains presumed to be perennial, then potential enforcement action may be necessary depending on the location and extent of work within the BVW area only. A site walk was scheduled for Monday, April 18, 2022 following the site walk at 42 Middle Road. Mr. Hatheway and the Commission agreed to table the discussion pending the site walk and additional information to be gathered regarding the stream.

Certificates of Compliance

5 & 7 Independence Way (DEP File #050-1250)

John & Pamela Sawyer (Applicants)

- Exhibits: Order of Conditions for 5 & 7 Independence Way with all attachments, Certificate of Compliance request form with all attachments

John Sawyer (applicant) presents a request for a complete Certificate of Compliance for work to complete a plant and tree care and planting plan. Mr. Sawyer outlined the approved plans and noted that, while all approved plantings were completed, only three of the plants survived. Samantha Holt noted that there was no reference to requirement for survival percentages in the original Order of Conditions and that there are in fact still three plants surviving. She also noted that the property was heavily vegetated to begin with and that no vegetation was removed, including those new plantings that did not survive. There was some discussion regarding whether the completed work warranted a partial or complete Certificate. Mary Rimmer suggested issuing a complete Certificate with a note that the plantings were partially completed because the activity of planting native plants does not require permitting, and the property as it exists is in compliance with the regulations. Motion by Mary Rimmer to issue a complete Certificate of Compliance as discussed; seconded by Ben Gahagan; vote 5:0:0

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Other Business

121 Orchard Street, Great Meadow Farm

Town of Newbury (Owner)

- Exhibits: Great Meadow Farm lease agreement between the Town of Newbury and Colby Farm
Samantha Holt presents information regarding the lease agreement for the maintenance and use of the Great Meadow Farm property by Colby Farm. The lease was originally discussed when a renewal request was made in November of 2020. Following the request, the Commission had decided to make a minor revision to the lease agreement, requiring that Colby Farm wait to hay the fields on the property until July 31st of every year (changed from July 15th). The decision was agreed upon in March of 2021, but was never brought back to get voted on. Ms. Holt made a request to have the Commission vote to accept the lease agreement as revised. Motion by Peter Paicos to accept the lease agreement as discussed; seconded by Ben Gahagan; vote 5:0:0

Bylaw Amendment

Samantha Holt announce that the newly revised bylaw amendment draft has been posted on the website along with a first draft of proposed accompanying regulations. Ms. Holt noted that due to the length and complexity of the drafted regulations, she would plan to create a secondary document that outlines the major regulation proposals to share in addition to the regulation draft. Several members of the Commission expressed concerns about having a regulations draft posted publicly when the Commission has not had much time to discuss it, and the Commission agreed to remove the regulations draft from the website until it has been more thoroughly reviewed. There was a brief discussion regarding the structure of the bylaw as it is proposed. The discussion was tabled until the public bylaw workshop scheduled for Tuesday, April 19, 2022 at 7:00 PM.

Restoration Projects

Brian Colleran opened up a discussion inquiring as to the interest of the Commission in getting involved with town-led ecological restoration projects. Mr. Colleran specifically asked if there was any interest in applying for funding to do restoration projects. It was noted by several members that we currently do not have the resources or plans needed to take on restoration projects. Samantha Holt noted that it may be worth it to start small with education and outreach plans. Ben Gahagan suggested creating a document to outline types of activities, the priority level, and time needs to implement them.

Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Samantha Holt, Conservation Agent