

Newbury Conservation Commission - Public Meeting Minutes
June 7, 2022

Members Present:

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

7:08 p.m. Meeting Called to Order

- Opening remarks from Conservation Agent Samantha Holt
- Minutes review: Motion by Mary Rimmer to accept the minutes as written for 5/24/2022; seconded by Dan Streeter; vote 4:0:0

COMMISSION DISCUSSION

Other Business

Vacant Seats

Samantha Holt noted that there are currently two open seats on the Commission, with at least one more seat opening up in July. She stated that the Commission is currently looking for volunteers to serve on the board. Interested parties should contact her directly (conscom@townofnewbury.org) for more information, or send Letters of Interest to Julie O'Brien (asstadmin@townofnewbury.org), with the Select Board, no later than June 21, 2022.

PUBLIC HEARINGS

Parker Street Right-of-Way (File #NCC-399) Town of Newbury (Applicant)

- Exhibits: Request for Determination of Applicability for the Clipper City Rail Trail extension with all attachments
Jon Rockwell (representative) presents a Request for Determination of Applicability for work to construct 350 feet of new shared-use path to extend the Clipper City Rail Trail to the Newburyport city line. Mr. Rockwell outlines the project including path dimensions, guard rail and curbing installation, fence replacement, nearby wetlands, and existing and proposed conditions of drainage systems. Commission members had an opportunity to discuss the project. Questions were raised regarding the drainage swale on the north side of Parker Street which will be filled and replaced, as well as the drainage flow in the area which will not be significantly altered. Motion by Mary Rimmer to issue a negative Determination of Applicability; seconded by Dan Streeter; vote 4:0:0

21 Cottage Road (DEP File #unassigned) Nathan Gray (Applicant)

- Exhibits: Notice of Intent for 21 Cottage Road with all attachments
Mr. Gray presents a Notice of Intent for work to replace the existing septic system. There were no questions of comments from the Commission. Motion by Pete Paicos to continue the hearing to 7:00PM on 7/5/2022; seconded by Dan Streeter; vote 4:0:0

60 Plum Island Turnpike (DEP File #unassigned) Support the Pink House, Inc (Applicant)

- Exhibits: Notice of Intent for 60 Plum Island Turnpike with all attachments
George Hall and Rochelle Joseph (representatives) present a Notice of Intent for work to conduct maintenance renovation to the rear side of the existing single-family residential structure. Mr. Hall outlined the project plans and its history, the house's imminent historic status, and the existing conditions and surrounding resource areas. Commission members had an opportunity to discuss the project. There was a request for a site walk to confirm the

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wetland flagging. Questions were raised regarding possible requirements to raise the new addition out of the floodplain, the current and proposed elevations of the house, the material for the patio and driveway surface, and mechanical equipment security measures. Motion by Pete Paicos to continue the hearing to 7:00PM on 7/5/2022; seconded by Mary Rimmer; vote 4:0:0

32 Northern Boulevard (File #NCC-400) David Davis & Judith Downes (Applicants)

• Exhibits: Request for Determination of Applicability for 32 Northern Boulevard with all attachments
Tom Hughes (representative) presents a Request for Determination of Applicability for work to remove the existing stairs and a portion of a deck encroaching on the adjacent property and reconstruct the structure entirely on the project site. Mr. Hughes outlined the project and methods of limiting impact on dune area and vegetation. Commission members had an opportunity to discuss the project. Questions were raised regarding the footings, Motion by Mary Rimmer to issue a negative Determination of Applicability; seconded by Pete Paicos; vote 4:0:0

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

• Exhibits: Notice of Intent for 7 Bittersweet Lane with all attachments
Tom Hughes and Stephen Sawyer (representatives) present several updates including stream observations and revision to septic system layout plans. Commission members had an opportunity to discuss the project. Questions were raised regarding the rerouting of the underground piping in the stream path and the proposed vegetation planting. Motion by Mary Rimmer to continue the hearing to 7:00 PM on 7/5/2022; seconded by Pete Paicos; vote 4:0:0

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

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

PLEASE NOTE: Ben Gahagan joined the meeting as the preceding hearing was closed.

105 High Road Public Access Easement

• Exhibits: 105 High Road public access agreement document
Brian Colleran noted that the Commission is being presented with the opportunity to accept, as a gift, a public access easement on the property at 105 High Road which will eventually serve as a public access way to the open space area on the same property. Motion by Ben Gahagan to have the Conservation Commission accept as a gift an easement located through 105 High Road to the Open Space area containing 547,860 ± square feet and owned by 105 Seagate LLC, a Massachusetts limited liability company with an address of 3 Graf Road, Unit 14, Newburyport, MA 01950, and as shown on the plan entitled "Seagate Condominium in Newbury, MA, showing Master Site Plan" dated April 12, 2022, and prepared by Northpoint Survey Services, Inc. pursuant to G. L. c. 40, § 8C and further that the Chair shall be authorized to execute any documents required to effectuate said gift; seconded by Pete Paicos; vote 4:0:0

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

Tom Hughes (representative) presents a Notice of Intent for work to construct a dock/pier, ramp, and floating dock within salt marsh resource area and ACEC. Mr. Hughes outlines several revisions that were made to the plans including relocation of the proposed dock to ensure ground clearance for the float and ramp. Commission members had an opportunity to discuss the project. Questions were raised regarding the height of ground clearance for the float at low tide, plans for removal of temporary structures for the "off-season", possibly removing the permanent structure decking in the "off-season", the shape configuration and orientation of the dock, and the predicted shading of the marsh vegetation. Stephen Sawyer (engineer) was also present to answer questions. Samantha Holt noted

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that she had conducted extensive research on applicable regulations and guidelines, and advised that this project as currently proposed does appear to satisfy them. Motion by Ben Gahagan to close the public hearing; seconded by Mary Rimmer; vote 5:0:0. Motion by Mary Rimmer to issue an approval Order of Conditions with special conditions to be discussed and voted on in a separate motion; seconded by Pete Paicos; vote 4:1:0. Commission members discussed several special conditions, a draft document for which was brought up on screen for viewing. Some edits were made, and the Commission and Applicant ultimately agreed on a total of nine (9) conditions, five (5) of which are perpetual conditions. Motion by Mary Rimmer to approve the special conditions with the revisions as discussed; seconded by Ben Gahagan; vote 5:0:0.

PLEASE NOTE: Ben Gahagan left the meeting after the preceding hearing was closed.

COMMISSION DISCUSSION

Certificates of Compliance:

9 Plummers Lane (DEP File #050-1353) Sharon Goodwin (Applicant)

- Exhibits: Order of Conditions for 9 Plummers Lane, Request for Certificate of Compliance with all attachments for 9 Plummers Lane

Samantha Holt presents a request for a complete Certificate of Compliance for work to install a new septic system, a site inspection was completed and Ms. Holt recommended the issuance of the complete Certificate for work completed in compliance with the approved Order of Conditions. Motion by Dan Streeter to issue a complete Certificate of Compliance; seconded by Mary Rimmer; vote 4:0:0.

26 Northern Boulevard (DEP File #050-555) Paul & Laura Barger (Applicant)

- Exhibits: Order of Conditions for 26 Northern Boulevard, Request for Certificate of Compliance with all attachments for 26 Northern Boulevard

Samantha Holt presents a request for a complete Certificate of Compliance for work to enclose the existing deck, a site inspection was completed and Ms. Holt recommended the issuance of an invalid Certificate as the work was never done. Motion by Mary Rimmer to issue a complete Certificate of Compliance; seconded by Pete Paicos; vote 4:0:0.

26 Northern Boulevard (DEP File #050-1069) Susan Christ (Applicant)

- Exhibits: Order of Conditions for 26 Northern Boulevard, Request for Certificate of Compliance with all attachments for 26 Northern Boulevard

Samantha Holt presents a request for a complete Certificate of Compliance for work to replace an existing retaining wall in-kind with different materials and resurface the driveway, a site inspection was completed and Ms. Holt recommended the issuance of the complete Certificate for work completed in compliance with the approved Order of Conditions. Motion by Mary Rimmer to issue a complete Certificate of Compliance; seconded by Dan Streeter; vote 4:0:0.

5 Moulton Street (DEP File #050-554) Michael Spears (Applicant)

- Exhibits: Order of Conditions for 5 Moulton Street, Request for Certificate of Compliance with all attachments for 5 Moulton Street

Samantha Holt presents a request for a complete Certificate of Compliance for work to install a new septic system, a site inspection was completed and Ms. Holt recommended the issuance of the complete Certificate for work

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completed in compliance with the approved Order of Conditions. Motion by Mary Rimmer to issue a complete Certificate of Compliance; seconded by Dan Streeter; vote 4:0:0.

Enforcement Issues:

48 Green Street Michael Hatheway (Owner)

Tom Hughes (representative) provides an update on the status of mitigation efforts following a notice of unpermitted work within BVW areas and associated Buffer Zones. Samantha Holt met on site with Mr. Hughes and Mr. Hatheway to discuss mitigation plans and noted that she has no concerns for the proposal. Mr. Hughes shared several aerial photos noting the locations and types of disturbance and outlined the plans for mitigation, replanting, and perpetual protection measures for wetland areas. Commission members and Mr. Hatheway agreed upon a completion date for the work to be no later than June 30, 2022.

22 Dartmouth Way Camille Maren (Owner)

Samantha Holt outlined a notice of violation issued to Ms. Maren for unpermitted work including additions and expansions to the existing single-family structure. Ms. Holt shared several historical aerial photos and noted that the only expansion was at the rear of the house, the area in question on the right side of the house is an enclosure of a small existing deck/landing. Ms. Holt also shared noted that a deck off the rear side of the house was significantly expanded beyond its original footprint but is not shown in the aerial imagery as it is too new, and a stone patio was installed in the backyard that does not appear to be a major issue as it was constructed with stone pavers over a sand base. The property is located in the Zone X floodplain, but there is a potential that the work will need to go through a ZBA process due to increased lot coverage. Ms. Holt spoke with Ms. Maren during a site visit, and Ms. Maren noted that she intended to do additional work to the structure which would require permits, and she hoped to be able to request permits for that work and include after-the-fact approval requests in the same application. Mary Rimmer suggested to have Ms. Maren return at the September 20, 2022 meeting to provide an update on the status on the submittal of a Notice of Intent. Ms. Holt stated she would issue a follow-up letter to Ms. Maren outlining the discussion and request of the Commission. The Commission and Ms. Maren unanimously agreed to the plan as discussed.

PUBLIC HEARING

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

- Exhibits: Notice of Intent application for 42 Middle Rd with all attachments
- There is no one present to discuss the project. Motion by Pete Paicos to continue the hearing to 7:00 PM on 7/5/2022; seconded by Dan Streeter; vote 3:0:0

COMMISSION DISCUSSION

Samantha Holt provided a brief update on the bylaw amendment process, noting that a new document outlining the regulation development portion of the process and some potential regulations that have been discussed. She also noted that there is a public workshop scheduled for June 21, 2022 and that a new draft version of the bylaw amendment will be published prior to that date.

Meeting adjourned at 9:50 p.m.
Respectfully submitted,
Samantha Holt, Conservation Agent