

Town of Newbury
Conservation Commission Monthly Meeting
Town Hall – 12 Kent Way
Tuesday September 20, 2016 at 7 p.m.

Present: Les Jones, John O’Connell, Dan Streeter, Doug Packer, Jim Cunningham
Excused: Ed Deardon, John Hartnett, Susan Noyes, Ben Gahagan

Meeting opened at 7:01 p.m.

Minutes:

June 30, 2016 (special meeting) – Mr. O’Connell made the first motion to approve the minutes and Mr. Cunningham made the second. All in favor.

July 19, 2016 - Mr. O’Connell made the first motion to approve the minutes and Mr. Streeter made the second. All in favor.

August 16, 2016 - Mr. O’Connell made the first motion to approve the minutes and Mr. Cunningham made the second. All in favor.

Chairman Packer informed the board that due to the Special Town Meeting scheduled for October 18, the next regularly scheduled Conservation Commission Meeting had to be rescheduled. After some discussion about available dates, the board agreed to reschedule the meeting date to Wednesday, October 12 at 7:00 pm. All continued hearings will be continued to this date.

Public Hearings:

Judith Vezinat & Carole Bradley (10 Exeter Way) – A continued NOI to construct a single-family home. No one was in attendance to present the project. Chairman Packer made a recommendation to continue the hearing to the October meeting. Mr. O’Connell made the first motion to continue the hearing and Mr. Jones made the second motion to accept. All in favor.

Paula & Eric Warner (11 54th Street) – A continued NOI to replace an existing block retaining wall. The hearing had been continued from the previous meeting so the applicant could address some issues mentioned by the board. The applicant was not in attendance and Chairman Packer made a recommendation to continue the hearing to the October meeting. Mr. Jones made the first motion and Mr. Cunningham made the second. All in favor.

Governor Dummer Academy (Elm Street and Old Road) – An ANRAD to confirm the delineation of resource wetlands. Robert Blanchette of Cammett Engineering reviewed the plan with the board, identifying the locations of wetland limits, and a vernal pool. He noted that at the site visit all parties were in agreement with the delineations. Chairman Packer confirmed that the

surveyor did a good job delineating the area. Chairman Packer opened up the hearing to questions, there were none. Chairman Packer closed the public hearing and recommended the board approve the delineation. Mr. O'Connell made the first motion and Mr. Jones made the second. All in favor.

Later in the evening, an abutter who had missed the public hearing asked to be heard. She asked when the site walk would be. Chairman Packer replied that it had already happened. The abutter expressed disappointment that she was not notified of the site walk. Chairman Packer explained that there may be another site walk, but not a part of this action. The abutter asked whether they had looked at the wetland and waterway on the property. Chairman Packer explained that the public hearing on this issue had closed, and the only action available to her at this point would be to appeal the Commission's decision. Mr. O'Connell further explained that if anything new is being built, there would be a new hearing, that the purpose of this hearing was to determine where the wetlands are located. No project is currently planned, but if there is it will come before the Commission at that time. The abutter asked whether there were plans she could look at. Chairman Packer replied there were and advised her to visit the Inspectional Services department at the Town Hall for copies.

Claire Seibert (34 School Street) – An RDA for mowing and maintaining an adjacent field. Ms. Seibert presented the board with photographs of the areas she would like to mow and remove nuisance vegetation such as poison ivy and sumac. Areas along the road had always been mowed or hayed, until the last few seasons. The area is now overgrown and holes in the ground present a walking hazard. The area along her driveway is overgrown, and an area behind her home is overgrown and they cannot remove a silt sock from a previous project without mowing. She's also like to remove brush and plans to leave the aspen trees on the property alone. Chairman Packer commented that these areas haven't been growing for long, until recently Mr. Manter had mowed the area. Mr. O'Connell asked whether the brush was all phragmites or if there were cat o' nine tails present. Ms. Seibert confirmed that there is some cat o' nine tails as well as phragmites near the road. Mr. Streeter asked how often she planned on mowing. Ms. Seibert replied she planned to mow once or twice a year. Mr. Streeter recommended she wait until July to mow to avoid disturbing nesting birds. Mr. Cunningham commented that she should avoid mowing too early in the spring because the ground would be wet and would suffer more impact. He recommended waiting until September to avoid impacting the ground. Chairman Packer went to the audience for questions or comments; there were none. Chairman Packer closed the public hearing and recommended the board issue a negative determination. Mr. O'Connell made the first motion subject to the condition that Ms. Seibert preserve the cat o' nine tails and limit the mowing to the late summer or fall season, and Mr. Jones made the second. All in favor.

Britton Construction (323 High Road) – An NOI for the construction of a single family home. Representative William Decie explained that the original lot had been approved for a single family home. Since the approval, an adjacent lot was purchased and merged with the original lot.

The applicant proposes building a single family home at the rear of the lot. The area is in the buffer zone and there is coastal storm flowage. No construction will be in the resource area. Mr. O'Connell confirmed the location of the property on High Road. Mr. Decie stated there were no alterations to the plan, and that the porch is at the edge of the salt marsh and 26 feet from the wetland. Chairman Packer corrected Mr. Decie in that the porch is 18 feet from the wetland. Mr. Packer also questioned as to why the house was set to the rear of the parcel. Mr. Decie replied that it was for the view. Mr. Packer noted that nothing would impede the view if the home were set further back from the marsh, and that maybe vista pruning could be done to improve the view in that case. Mr. Decie agreed with Mr. Packer's statement and indicated he would discuss it with the owners. Mr. Packer noted that the original plan was to have the home located closer to the road and questioned whether the planned septic system would also be moved. Mr. Decie agreed that that would make sense. Mr. O'Connell commented that he'd like to see something regarding the finished floor elevation. Chairman Packer suggested that might depend on the insurance company. The way it's planned it is compliant, but could be elevated another 2 or 3 feet. Mr. Decie remarked that they may experience cellar flooding, the home is in a tough spot. He stated he would ask the owner about moving the home further back from the marsh and about adjusting the septic location. Chairman Packer went to the audience for questions, there were none. He recommended continuing the hearing to October 12 in order to allow the applicant to address the issues regarding the location of the home and septic system. Mr. Jones made the first motion and Mr. Streeter made the second. All in favor.

Triton Regional School District (63 Hanover Street) – An RDA to expand the play area at Newbury Elementary School. Mr. O'Connell recused himself and presented the project to the Board. He explained that the project involved adding twenty feet of space by the basketball court and erosion control between the woods and old play area. Features such as benches and playground equipment would be added and adjustments to a walkway to a trail would be made. Mr. Streeter asked whether Mr. O'Connell had any plans for review. Mr. O'Connell presented the plans and showed where the expansion would be. Chairman Packer went to the audience for questions; there were none. Chairman Packer recommended closing the hearing and issuing a negative determination. Mr. Streeter made the first motion and Mr. Cunningham made the second. All in favor.

Joyce & Gary Machiros (14 McLeod Avenue) – An NOI to construct a driveway. Joyce Machiros described the project to the board. The planned driveway would access Old Point Road. The area of the lot is 16,100 square feet and the planned driveway would cover 2229 square feet, about 150 feet long. Ms. Machiros explained that they had previously owned other properties surrounding this address, and as those properties were sold, this property had become landlocked, so a driveway is needed. Mr. Streeter asked about the conditions of the property. Chairman Packer replied that the lot is a well vegetated sand area. Mr. O'Connell requested clarification as to where the driveway was located on the plan. Ms. Machiros showed Mr. O'Connell and stated that the planned driveway will be 10 feet wide and have a turnaround area

near the home. Mr. O'Connell asked Ms. Machiros if she currently lives at this address. Ms. Machiros replied that she does not currently reside there, but may in the future. Mr. O'Connell commented that the alternative would be closing the home or parking on the street. Chairman Packer agreed and stated that the walk from the street is difficult. Mr. Streeter asked where the water/sewer comes into the property. Ms. Machiros replied that the water/sewer comes in from the south of the property. Mr. Streeter asked whether there are plans to replant vegetation. Ms. Machiros replied that the vegetation is mostly poison ivy, and some beach grass, and that the poison ivy would be removed and disposed of. Chairman Packer asked whether sand will leave the site and Ms. Machiros replied that it would not. Ms. Machiros explained that some bushes and trees would be removed to make way for driveway. A dune would be excavated to a lower level. Gravel would be used as the driveway surface and geotextile fabric would be placed under the base, and a turnaround is planned for entry and exiting. ¾" pea stone will be used as a finish. Mr. Streeter asked whether DEP had made any comments, and Chairman Packer replied that there weren't any yet. Mr. Streeter expressed concern that there would be a considerable loss of vegetation. Chairman Packer replied that the home needs an access point. He further explained that zoning requires two parking spots. Chairman Packer then went to the audience for questions. Dan Rogers of Ivy Lane came forward to look at the plan and states that it looks like a good project. Chairman Packer closed the public hearing and recommended approving the project. Mr. O'Connell made the first motion and Mr. Cunningham made the second. All in favor.

ERA Equipment (101 Newburyport Turnpike) – an amended NOI to expand a parking area and modify a stormwater management area. Representatives Greg Hochmuth of Williams & Sparages and Attorney Barry Fogel were present with the applicant to explain the proposed amendments. Mr. Hochmuth explained that an Order of Conditions was issued in the fall of 2012 for the building, septic plan, and parking area. There have been deviations from what was permitted in the original Order of Conditions and Mr. Hochmuth had been retained to conduct an as-built survey for the deviations. Most of the deviations are minor; however, there was one major deviation with regards to an access road to a cell tower behind the building. There is a 25 foot no disturb wetland zone, and the driveway was not loman seeded as was permitted. There is a 1:1 boulder and gravel wall instead of the permitted slope. The applicant wants to keep the slope as is because it provides more space for him to maneuver and park his vehicle. Mr. Hochmuth continued to explain that there are leak issues for the wetland. The current stormwater plan can't handle the run-off and they'd like to modify it to allow for pavement. They'd like to add additional swale for water quality. There is enough space, but some things need tweaking. Mr. O'Connell asked whether there was work happening beyond the access driveway. Mr. Hochmuth replied yes, the area was being used a contractor storage, as planned. There are Shay blocks in the access area and Mr. Hochmuth proposed addition bins for the storage of materials. Mr. Hochmuth stated that the applicant is aware of what is needed for compliance. Mr. O'Connell stated he did not remember approval for storage. Chairman Packer replied that he recalled some storage of materials was discussed, and was the reason for the use of large stones

and for limits, but he doesn't remember discussing the use of rap. Attorney Fogel stated that the rap had been taken out. Mr. O'Connell asked when it was removed. Attorney Fogel replied it had been some time ago. Chairman Packer suggested the Commission conduct a site visit to assess the deviations. Chairman Packer noted that the slope had been changed from the permitted 3:1 grass slope to a 1:1 boulder slope and expressed concerns the slope might be more than 1:1. Mr. Hochmuth replied that they would make sure the slope was 1:1 or less, and that pavement would make plowing easier and less likely that gravel will migrate to the resource area. Mr. O'Connell asked whether they would be going to the planning board. Mr. Hochmuth replied that they were on the agenda for September 28. Mr. Hochmuth further stated that the applicant would like to have the parking area paved this year, but it will take time and so they also requested an extension. Chairman Packer stated that the Commission had not received the required O&M checklist throughout the project. Mr. O'Connell suggested the town's engineer be contacted to review and comment on the site prior to the Planning Board meeting on September 28. Attorney Fogel asked whether the engineer would review the stormwater calculations. Chairman Packer stated that he would review everything. Chairman Packer then asked about when a good time for a site visit would be. The applicant stated any time would be fine with him. Mr. O'Connell asked whether they would have another meeting regarding this issue. Chairman Packer replied that there would be another meeting after the site visit. After some discussion, the Commission settled on a date and time of September 28 at 5pm for the site visit. At this time, Mr. Hochmuth requested a continuance of the hearing until the next Conservation Commission meeting. Chairman Packer clarified that this would be October 12. Mr. O'Connell made the first motion and Mr. Cunningham made the second. All in favor.

Ralph and Betsy Cox (3 Temple Boulevard) An RDA to install a propane tank. Tom Hughes was present to represent the applicant. Mr. Hughes presented the Commission with an updated plan and photographs of where the tank will go. He noted that due to a recent house fire, there is general anxiety about placing propane tanks against a home, so they would like to bury the tank to protect from fire, per Town requirements. Mr. Hughes pointed out that the dune and vegetation is recovering quickly and that a gap from human interference had been filled in. He also stated that there will be little to no vegetation impact. Mr. Cunningham noted that the tank size is approximately 41 inches in diameter and 16 feet long and that it meets needs and avoids frequent deliveries, and that it was out of the floodplain. Mr. Packer reminded Mr. Hughes that that the project will require review by the fire department. Mr. O'Connell stated that buoyancy calculations were needed. Chairman Packer went to the audience for questions. An abutter to the property voiced concerns about possible environmental impacts and asked what would happen if the tank leaked, and how could a leak be detected if it's buried. Mr. Hughes replied that if the tank leaked, the contents are gas so it would disperse into the air. The tank would be four feet above groundwater, so any leak would have minimal to no impact on the ground water. The tank will be equipped with pressure valves which would show if there was a leak. He also noted that it is a clean fuel and that's why more people are moving to natural gas and propane. Chairman Packer commented that the Board of Fire Engineers would prefer to see propane tanks buried in

some cases. Mr. O'Connell made the first motion to issue a negative determination and Mr. Streeter made the second. All in favor.

Bradley and Lynne Duffin (3 Johnson Road) an NOI for an addition to an existing home and finish a ramp to access the garage. Representative Tom Hughes was present together with the applicant to describe the project. Mr. Hughes explained that the garage was previously permitted with the ramp, but the ramp was never constructed. In its current condition, the garage cannot be driven into. The applicants would also like to make a small addition to the structure. Mr. Hughes provided photographs to the Commission and pointed out some riverfront area and marsh across the street. He stated that the architect plans to infill below garage and the home, and to add a second-floor bump-out, as well as a new entrance and some stairs. The ramp will be a hybrid pile and earthen ramp with a clamshell surface. The original ramp was approved as a solid ramp and the Certificate of Compliance that was issued for the project did not mention that the ramp was not constructed. Mr. Hughes also mentioned that a hollow had formed under the home and a sewer pipe is now exposed, which they plan to cover. There is unhealthy and non-native vegetation present as well as poison ivy which they plan to remove and replace with native plants. Chairman Packer asked whether there would be an increase in the footprint. Mr. Hughes replied that there would not. Chairman Packer asked whether there was a planting plan in place. Mr. Hughes replied there will be and it will be provided to the Commission. They currently plan on a 1 to 1 vegetation replacement. Chairman Packer opened the floor for questions from abutters. Abutter Roger Daniels of 56 Old Point Road asked how far the bump out would be. Mr. Hughes replied it would be about 7 or 8 feet. Mr. Daniels went on to state that the hollow under the building is from wind and erosion. Mr. Hughes confirmed this and stated that if necessary sand or snow fence would be installed to prevent further erosion. Mr. Daniels asked how much sand would be placed in the hollow. Mr. Hughes replied that only enough to cover the pipe would be used. Mr. Daniels expressed concern about flooding in the area and changes to the property causing additional flooding issues for his property, and he wanted to be sure that additional materials would not be added to the property and he'd also like to know where replanting would occur. Mr. Hughes showed him where the replanting would occur. Mr. Jones asked Mr. Daniels when the last flood was. Mr. Daniels replied 7 or 8 years ago. Mr. Hughes acknowledged that the highest spring tide is approximately 6.1 feet, so a spring storm would cause flooding. Mr. Daniels stated the water comes up Johnson Lane. Mr. Hughes replied that there is not a lot that can be done to affect the other lots. There will be some impacts from machinery but those areas will be replanted. The Order of Conditions becomes a lien on the property and the Commission will make sure the project is in compliance before issuing a Certificate of Compliance. Chairman Packer stated that limits of fill are needed. Where the sand will be placed and how much needs to be added to the narrative. Mr. Streeter asked what the anticipated temporary impacts were for the bump out. Mr. Hughes replied they anticipated impact from equipment such as drive piles. The area would be replanted. Mr. Streeter asked about fencing showing limit of work. Mr. Hughes replied they would install snow fence around the border and would update the plan as such. Chairman Packer asked whether the Commission

would like to continue the hearing. Mr. Hughes asked that the Commission close the hearing and withhold issuing the Order of Conditions until the narrative and plan are updated with the condition that the Commission can reopen the hearing depending on DEP comments. Mr. Jones made the first motion to close the hearing barring further comments from DEP, and Mr. O'Connell made the second. All in favor.

Certificates of Compliance:

Elizabeth McLeod & Bob Oliva – (12 Smith Street) – DEP File No. 050-990 – Chairman Packer stated that he inspected the property that day and the project was completed satisfactorily. Chairman Packer recommended issuing the Certificate of Compliance. Mr. Cunningham made the first motion and Mr. O'Connell made the second motion. All in favor.

Attorney Judy Field / Mark Kehoe (46 Pearson Drive) – DEP File No. 050-1191 – Chairman Packer stated that he inspected the property that day and the project was completed satisfactorily. Chairman Packer recommended issuing the Certificate of Compliance. Mr. Jones made the first motion and Mr. O'Connell made the second motion. All in favor.

Extension Permit:

ERA Equipment (101 Newburyport Turnpike) – DEP No. 050-1104 – Having discussed the project earlier in the meeting, Chairman Packer opened the floor for questions. Chairman Packer asked Mr. Hochmuth whether they were requesting a year extension. Attorney Fogel replied that would be sufficient and added that the current extension was issued in 2015 and expires this year. Mr. Cunningham asked whether Mr. Fogel thought they would need additional extensions. Mr. O'Connell added that an early winter could delay the project further and he was concerned that they would be having the same conversation this time next year. Mr. Hochmuth replied that they work is 90% completed, but nothing is growing yet. Chairman Packer expressed concern that planting might be pushed out to spring and it could take a year or longer to complete. Mr. Cunningham commented that he was unsure if the project could be completed in a year. Attorney Fogel replied that they just need vegetation. Mr. O'Connell advised that they did not want to put seed down in July because it would not grow fast. Mr. O'Connell made the first motion to issue a year extension and Mr. Streeter made the second. All in favor.

Emergency Certificates: None

Re-Issuance:

Jennifer Wright (15 Harvard Ave.) – DEP No. 050-781 – Chairman Packer explained that the Order of Conditions had been issued ten years ago. Chairman Packer recommended the

Commission re-issue the Order as the Registry of Deeds will not accept a copy. Mr. O'Connell made the first motion and Mr. Cunningham made the second. All in favor.

Other Business:

Elizabeth McLeod & Bob Oliva (12 Smith Street) – Fence Construction – Mr. Oliva was present to explain his project. He presented the Commission with photos showing the proposed fence. He plans to install the fence so the lattice portion would be on the ground and allow for flow. He plans to place the fence along the property line for approximately 34 feet to block his view of the neighboring yard. The fence will go up a hill between Riverside and Smith Street. Chairman Packer noted that there was a two-foot opening on bottom. Mr. Oliva replied that he could make the opening higher if needed. Mr. O'Connell replied that it looked about 75% open. Mr. Oliva further explained that there is no sand movement in that vicinity, and that beach roses will grow in the area around the fence. The Commission all agreed that the fence was satisfactory.

Arthur Allen (65 Plum Island Turnpike) – DEP File No. 050-896 – Mr. Allen was present to discuss his project. He explained that an Order of Conditions is in place and he'd like to amend that Order. He'd like to modify the steel platform located at the front of the existing foundation to move the front of the foundation further back from the roadway. He'd also like to move the second set of stairs toward the road and out of the salt marsh, as well as extend the deck. Mr. Jones commented that the adjustments will result in a smaller building. Chairman Packer agreed that it would be a lot smaller than originally permitted, and that the new plan separates the two means of egress. Chairman Packer recommended the Commission accept Mr. Allen's updated plan and place it on file. Mr. O'Connell made the first motion and Mr. Streeter made the second. All in favor.

John O'Connell (63 Hanover Street) – Mr. O'Connell requested the Commission set a special meeting date to discuss a proposed walkway through bordering vegetated wetland at the Newbury Elementary School. Chairman Packer stated that a legal ad needs to run in the paper a week prior to the scheduled meeting, so the earliest meeting date would be October 3. Mr. O'Connell replied he would like the meeting as soon as possible. Chairman Packer asked whether the meeting should take place during the day or evening. The Commission agreed that a day time meeting at 9 AM would be best.

Meeting adjourned at 9:20 PM

Respectfully submitted, Jennifer Goodwin