

Newbury Conservation Commission - Public Meeting Minutes
March 21, 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 2/21/2023. Peter Paicos recused himself from the vote and discussion. Mary Rimmer requested one edit. ***Motion by TJ Conte to approve the 2/7/2023 minutes as drafted and amended; seconded by Dianne O'Brien; vote 4:0:1.***
 - Commission members reviewed minutes from 3/7/2023. Peter Paicos and Bob Connors recused themselves from the vote and discussion. ***Motion by TJ Conte to approve the 3/7/2023 minutes as drafted; seconded by Dianne O'Brien; vote 3:0:2***

CERTIFICATES OF COMPLIANCE

92 Hanover Street, Lot 43A (DEP File #050-0255) Stephen S Noyes (Applicant)

- Exhibits: Order of Conditions for Hanover Street, Lot 43A, Request for Certificate of Compliance for 92 Hanover Street, Lot 43A

Samantha Holt presents a request for a complete CoC for work to construct a 42 by 68 Morton steel building with associated site work. 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 3/14/2023, and Ms. Holt noted that it appeared the work was completed in compliance with the description available in the OOC. ***Motion by Mary Rimmer to issue a complete Certificate of Compliance; seconded by Peter Paicos; vote 5:0:0.***

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

Samantha Holt presents an Enforcement Order issued to Mr. Latimer on 3/13/2023 for violation of a Negative DA issued on 2/9/2023 for work to expand the second-floor deck to match the footprint of the first-floor deck and to reconfigure the existing roof line. On 3/13/2023, Inspectional Services received a complaint that the existing house was taken down to the foundation. Ms. Holt and Peter Binette (Building Commissioner) went to the site to issue stop-work orders. It was later confirmed by Mr. Binette that Mr. Latimer would not be required to go back to the ZBA or get a new building permit as the end result of the work would be exactly the same as the approved work, and based on a certified third-party appraisal and work cost estimate the substantial improvement rule would not be triggered. The issues before the Commission are to handle any disturbance to resource areas through the EO and to determine whether additional permitting is needed through the Commission. Commission members had an opportunity to discuss the violation issue with Mr. Latimer and Ben Perez (Boston North Development, representative). Questions were raised regarding substantial improvement, what led to the change in the scope of work, the status of the parking area to the left of the house, disturbance of the dune and vegetation, potential future

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impacts to the dune/vegetation, whether there would be any changes in the plans, what process may be required to appropriately permit the work in its current state (Ms. Holt noted that had the current scope of work been what was originally presented, she would have advised Mr. Latimer to file an NOI), need and timeline for restoration, and impacts to NHESP Priority Habitat for Rare Species. ***Motion by Dianne O'Brien to ratify the Enforcement Order as a cease and desist, with the amendment to remove the requirement for a Notice of Intent to be filed, and to continue the discussion to 4/4/2023 at 7:00 PM pending a site walk; seconded by TJ Conte; vote 5:0:0.***

PUBLIC HEARINGS

6 Courtney Drive (DEP File #050-1400)

Ron Guertin (Applicant)

- Exhibits: Notice of Intent for 6 Courtney Drive with attachments

Samantha Holt presents an NOI for work to construct an addition to the existing structure, and after-the-fact restoration of disturbed BVW and Buffer Zone. Ms. Holt noted that the violation issue of disturbed BVW and Buffer Zone was brought to her attention directly by the applicant's representative (Tom Hughes, Hughes Environmental Consulting). The violation was unintentional, as the wetlands could only be located through soil sampling and the applicant was unaware he had gone into BVW. Ms. Holt also noted that, based on comments from DEP, the restoration work needs to be covered under an Enforcement Order, while the proposed addition and restoration monitoring requirements can be covered under the NOI. Bob Connors raised a question about an old OOC, and Ms. Holt noted we have no file and the OOC was never recorded so a CoC for the work is not possible – however, based on Building file records it appears the work was for the construction of the existing pool area. Tom Hughes (representative) presents additional information on the NOI and EO work. Commission members had an opportunity to discuss the projects. Questions were raised regarding the replacement of the existing retaining wall, and inclusion of restoration monitoring in the OOC. Ms. Holt shared, on screen, drafts of the OOC Special Conditions and the EO for review and revision. ***Motion by Mary Rimmer to issue the Enforcement Order as drafted and revised; seconded by Peter Paicos; vote 5:0:0.*** Discussions continued regarding the replaced retaining wall and OOC Special Conditions. ***Motion by Mary Rimmer to issue an Order of Conditions approval the Special Conditions as drafted and revised; seconded by Dianne O'Brien; vote 5:0:0.***

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

Samantha Holt presents an NOI for work to construct a walking path to provide access to the new Alford Science Building. Mark Beaudry (Civilworks New England, representative), Mr. Woodruff, and Wendy Reed (TGA, representative) are also present to discuss the project. Mr. Beaudry provided additional information on the proposed work and wetland restoration. Commission members had an opportunity to discuss the project. Questions were raised regarding stabilization of slopes and width of the path. ***Motion by Dianne O'Brien to close the public hearing and issue an Order of Conditions approval; seconded by TJ Conte and amended by Mary Rimmer to note that the OOC Special Conditions would be discussed at the 4/4/2023 meeting; vote 5:0:0.***

ADMINISTRATION

Samantha Holt announced that students from Newburyport High School would be holding a Plum Island Beach Cleanup on April 7th, starting at Plum Island Center and moving north.

Meeting adjourned at 10:13 p.m.

Respectfully submitted,

Samantha Holt, Conservation Agent