

Newbury Conservation Commission - Public Meeting Minutes  
May 2, 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)

7:00 p.m. Meeting Called to Order

- Opening remarks from Conservation Agent Samantha Holt

**REQUEST FOR DETERMINATION OF APPLICABILITY**

15 Northern Boulevard (File #NCC-422) Jerrard Whitten (Applicant)

- Exhibits: Request for Determination of Applicability for 15 Northern Boulevard with attachments
- Samantha Holt presents an RDA for work to add a second-floor deck on the existing first-floor roof line. Dumpster will be staged in the driveway, material staging will be in the driveway or on the existing first-floor deck, and ladders/scaffolding will be staged on the first-floor deck. Commission members had an opportunity to discuss the project. Requests were made to include the associated building work in the project description, and to include conditions for dumpster/material staging and requirements to discuss any potential changes with the NCC/Agent before implementation. ***Motion by TJ Conte to issue a Negative Determination of Applicability with the revisions and conditions as discussed; seconded by Dianne O'Brien; vote 5:0:0.***

**PUBLIC HEARINGS**

68 Green Street, Lot 2 (DEP File #050-1391) Crane Properties, LLC (Applicant)

- Exhibits: Request to Amend the Order of Conditions for 68 Green Street, Lot 2 with attachments
- Samantha Holt presents a request to amend the OOC issued 8/18/2022 to include revised expanded grading in the Buffer Zone. Commission members had an opportunity to discuss the amendment. Questions were raised regarding the proposed slope of the grade. A request was made to have the Limit of Work line permanently delineated and a condition was drafted to accommodate that request. Ginny Noyes Thompson (Noyes Lane resident/abutter) shared several concerns with the Commission regarding the other work on site. Ms. Holt noted that when reviewing amendments the only information that should be discussed is that which is being changed and no changes can be made on other aspects of the project, but offered to address those concerns outside of a meeting. Matt Steinel (representative, Millennium Engineering, Inc) did provide some brief responses to Ms. Thompson's concerns. ***Motion by TJ Conte to approve the amended OOC with the added Special Condition as discussed; seconded by Dianne O'Brien; vote 5:0:0.***

17 & 19 10<sup>th</sup> Street (DEP File #unassigned) Kevin & Lisa Barlow (Applicants)

The Applicant has requested a continuance. ***Motion by Peter Paicos to continue the hearing to 7:00 PM on 5/16/2023; seconded by Dianne O'Brien; vote 5:0:0.***

6 Olga Way (DEP File #050-1402) Ellen Daly (Applicant)

- Exhibits: Notice of Intent for 6 Olga Way with attachments
- Samantha Holt provided an update on the discussions from the 4/18/2023 meeting, noting that the outstanding concern is the proposal to have a buried propane tank serving the structure. Ms. Holt looked into the issue and noted that under the NFIP and state building code, buried tanks are allowed in the floodplain as long as they are

Newbury Conservation Commission - Public Meeting Minutes  
May 2, 2023

properly anchored, and that under the WPA they are not explicitly disallowed in coastal dunes. Ms. Holt also stated that the task of the Commission is to determine whether a buried tank meets dune performance standards. Bob Connors asked about the ZBA hearing process, and Matt Steinel (representative, Millennium Engineering, Inc) stated the application is in but they have not had their first hearing yet. Commission members had an opportunity to discuss the project. Concerns were again raised regarding buried tanks and dune performance standards. Mr. Steinel requested to table this discussion until after the next hearing item while he contacts the Applicant to discuss it with them. Commission members agreed, discussion tabled.

170 Orchard Street (DEP File #050-1403)

Diane Yurkavich (Applicant)

- Exhibits: Notice of Intent for 170 Orchard Street with attachments

Samantha Holt provided an update on the site walk conducted 5/1/2023, during which Bob Griffin (representative, Griffin Engineering Group, Inc) stated that a gravel farming access road was going to be proposed in the Buffer Zone and added to the plans. These revised plans were received and are the most current up for review. Commission members had an opportunity to discuss the project. A request was made to have the Limit of Work line on Lot 4 permanently delineated and a condition was drafted to accommodate that request. Commission members and Mr. Griffin also addressed comments received by DEP regarding areas of agricultural use in the Buffer Zone. These areas will continue to be in agricultural use and therefore the Commission is not requiring information on restoration at this time. Mary Rimmer also requested a condition outlining and referencing the regulations on farming in and around wetlands. ***Motion by Dianne O'Brien to issue the Order of Conditions approval with the conditions as drafted and revised; seconded by Mary Rimmer; vote 5:0:0.***

6 Olga Way (DEP File #050-1402)

Ellen Daly (Applicant)

- Exhibits: Notice of Intent for 6 Olga Way with attachments

Picking up on the previous discussion, Mr. Steinel requested that the Commission vote to approve the project with a condition that the proposed propane tank shall be installed above ground rather than buried as it was proposed.

***Motion by Peter Paicos to issue the Order of Conditions approval with the conditions as drafted and revised; seconded by TJ Conte; vote 5:0:0.***

## **ADMINISTRATION**

Samantha Holt provided an update on the Emergency Certificate for 18 Fordham Way (Blue Inn, Ryan Guthrie - owner). Commission members voted at the 4/18/2023 meeting to issue the EC for work to replace two sets of stairs on the beach providing hotel guest access to the lower beach area. Shortly after, Ms. Holt discovered regulatory language that indicated this was an inappropriate use of the form. Ms. Holt reached out to the DEP Circuit Rider who agreed it was not an appropriate use of the form. After discussions with Bob Connors and Mary Rimmer, it was decided to uphold the vote to issue the EC with the conditions as discussed, which was done on 4/27/2023. Ms. Holt outlined the criteria that warrant an EC to be issued and the regulations related to them.

Ms. Holt outlined a question from the owner of 49 Northern Boulevard. Tom Ryan (owner, present for discussion) is looking to do a temporary alteration to the existing deck in order to remove an existing encroachment. Removal of the encroachment would result in removal of an egress route and would require it to be relocated and altering the footprint of the deck (no increase in square footage). Commission members discussed the request to remove the encroachment and add temporary footings to support a relocated egress and determined that they cannot allow it to be completed unpermitted and a Notice of Intent would be required to do the work.

Commission members discussed altering the meeting schedule and/or frequency. Changing the day meeting are held, meeting frequency, and meeting time were all considered. It was agreed that beginning on July 1, 2023, the Commission would start meetings at 6:00 PM rather than 7:00 PM, and that the meeting day (Tuesday) and

Newbury Conservation Commission - Public Meeting Minutes  
*May 2, 2023*

frequency (first and third Tuesday of the month except November-January when we will meet once a month) would stay the same.

Ms. Holt advised the Commission of an email received from Patrick Brennan. Last summer Mr. Brennan voiced complaints about domestic ducks in a pond on town-owned property at 189 High Road, noting he believed the ducks were causing damage to the pond and bank. The recent email received presents a new concern that the duck owner has now released a pair of swans on the pond and Mr. Brennan is concerned about their impact on native wildlife and on the wetlands. Ms. Holt noted that the report is being investigated to determine how to move forward and at this time the Commission is being advised that it exists, no Commission action is needed at this time.

Meeting adjourned at 8:49 p.m.

Respectfully submitted,

Samantha Holt, Conservation Agent