

Town of Newbury
Conservation Commission Meeting Minutes
March 30th @ 7:00 pm – Via Zoom

Roll Call: Bill Lord, Brian Collieran, Peter Paicos, Bill Lord, Ben Gahagan, Mary Rimmer, Dan Streeter. Kevin Stromski was absent.

Meeting started at 7:03 pm

Next Regularly Scheduled Meeting Date(s): April 20th; May 11th;

Minutes for Review: None

Chairman Collieran read the remote meeting script for COVID-19 and ground rules for meeting.

Kassandra Galipeault (25 Northern Blvd) DEP# 050-1345 – an NOI to perform repairs and additions to an existing single-family dwelling.

Mr. John Dick represented the Galipeaults, and described the proposed plans, including a 2nd floor bedroom addition and a roof over the deck. Mr. Holt agreed with the presentation, and primarily noted the upward expansion, no dune impact or change on property line offset, but the Floor Area Ratio (“FAR”) increases a bit. He stated he wanted to see the staging area for dumpster on a revised plan. Ms. Rimmer wants a plan for replacement of damaged plants. Mr. Holt stated that FAR issues are handled by the Zoning Board. During public comment section, Ms. Stanizzi, an abutter, stated she was concerned about the FAR. Site is so small now and wonders how can project be built. Ms. Rimmer asked if Commission should act before or after ZBA and stated that the Wetlands Protection Act requires that all local permits must be applied for at the time of filing.

Ms. Rimmer asked the Galipeaults if they had applied to Zoning Board yet. They said they had not and wanted project done before busy summer season. Mr. Collieran asked to stop the discussion and stated that he wanted to see a revised plan showing change of room size. There was more discussion on how to meet FAR limits, and it was determined that the FAR on the plan is incorrect and needs to be changed. Mr. Lord suggested that project should be tabled for now. Another public commenter and abutter at 23 Northern Blvd., Mr. Dale Beaudoin asked how adding roof on deck does not increase FAR. Mr. Holt stated he would confirm with Building Inspector regarding FAR rules and also stated that project needed to go to Zoning Board. At this point, Mr. Collieran requested a vote to push matter out to the next meeting. Mr. Gahagan made the motion to table the hearing until later in the agenda to provide the representative an opportunity to discuss potential plan changes with the applicant to address the FAR concerns; Mr. Lord seconded. Unanimous vote.

Shari Melto (5 Plum Bush Downs) – an RDA to construct stairway access by adding a landing and steps to an existing deck.

Mr. Holt spoke on Ms. Melto’s behalf at her request. She needs a second way of safe egress, which is not safe as she uses a ladder to enter/exit via the deck. This project will be minimal impact and a safety issue which needs to be corrected. Mr. Streeter agrees with Mr. Holt. Ms. Rimmer asked if deck had

been permitted, Ms. Melto replied that it was, 30 years ago. Mr. Paicos said safety issue must be corrected. Mr. Streeter suggested a Determination of Applicability, negative 3. Mr. Colleran made a Motion to issue a Negative 3 finding. Mr. Lord seconded. Vote was unanimous. Mr. Holt will assist Ms. Melto with the process.

US Fish & Wildlife – an NOI for Salt Marsh restoration between 3rd parking lot and maintenance building, west of Refuge Road, Newbury, and a request to waive local filing fee for project. Ms. Nancy Pau, Biologist with USFWS provided a large package of information and also sent Mr. Holt a condensed version of the “100-acre Marsh Restoration” and ran a PowerPoint presentation of the project in the meeting. She submitted for permits from DEP, US Army Corps of Engineers, Archaeologic permits, and other permitting entities. Mr. Colleran stated he had no questions, and asked for Committee comments. Mr. Gahagan stated there was a lot to absorb and wanted to keep looking at project, and appreciated all of the efforts. Mr. Colleran made a Motion to waive the Conservation Local filing fee, Mr. Lord seconded the motion. Unanimous vote. Mr. Colleran then made a second Motion to continue to the April 20th meeting while waiting for the DEP number to be posted by State. Ms. Rimmer seconded the motion. Unanimous vote.

Zendko, LLC (15 Coleman Rd) DEP# 050-1348 – an NOI to construct for an (8) lot Open Space Residential Development project that includes a 400-ft roadway, six new single-family homes and renovation of existing single-family home with associated stormwater management, utility, access paths, and limited grading work within the 100-foot buffer for the proposed drainage and roadway;

Zendko, LLC (15 Coleman Rd) DEP# 050- 1347– an NOI to construct for a single-family home on Lot 4 which includes utilities, driveway, limited grading work within the 100-foot buffer;

Zendko, LLC (15 Coleman Rd) DEP# 050-1346 – an NOI to construct for a single-family home on Lot 5 which includes utilities, driveway, limited grading work within the 100-foot buffer;

The Chair elected to open all three hearings in order to combine discussion on these projects. Representative for the applicant, Phil Henry of Civil Designs Group, went over the revised plans for the three above-referenced files. Revised plans have been submitted to Planning Board. The Planning Board’s peer review engineer, Joe Serwatka, outlined minor changes, but, nothing significant on the Stormwater and infiltration rate.

Mr. Doug DeAngelis asked to speak, wanted to know who held the open space area. Mr. Henry stated that an owner had not yet been picked. Applicant, Mr. Tom Zahoruiko stated his intention that the Homeowner’s Association would own the land. Mr. Gahagan asked about parking spaces for people to access open space. Mr. Zahoruiko replied that issue was currently with Planning Board. Mr. Martin Krugman, abutter at 19 Coleman Rd., stated that he believes Lots 4 and 5 significantly impact the buffer zone and expressed concerns about encroachment, flooding, and potential well contamination due to runoff to both his and his neighbor’s water sources. He also expressed concerns regarding density of homes within the parcel. A site walk was scheduled for April 8th at 5 pm. Ms. Rimmer made a Motion to continue all 3 items to the April 20,2021 meeting at 7 pm. Mr. Lord and Mr. Paicos seconded. Unanimous vote.

Duane Cromwell (11 Jackson Way) DEP# 050-1351 – an NOI to perform renovations on an existing single-family dwelling. Continued from March 9th, 2021 Meeting.

Mr. Barrett emailed a request for Continuance as the project still does not have a DEP number. Motion to Continue matter to the April 20, 2021 made by Mr. Paicos, seconded by Mr. Lord. Unanimous vote.

Vincent Godin (2 Old Point Rd.) DEP# 050-1344 – a continued NOI to do redevelopment work at site to create a new restaurant, outdoor seating, a moveable kitchen, and 54 new parking spaces. Continued from March 9, 2021 meeting;

Mr. Steve Sawyer listed the changes made to the plan based on DEP comments, and the lack of response to emails and phone calls to the DEP. There was a brief discussion on the type of sand that would be used on the property. Ms. Rimmer suggested same composition as the existing dune sand and recommended a Condition for that. Mr. Holt recommended Conditions for soil testing after paving removal and to specify the type of sand used. Mr. Sawyer stated that he was waiting for traffic study to be done.

Ms. Rimmer made a Motion to approve project with special Conditions regarding soil testing after the old pavement was removed and the sand used on-site should be grain-consistent with the Island and Building permits obtained. Mr. Paicos seconded the motion. Vote was unanimous.

Kevin Whitney (85 Boston Rd.) DEP# 050-1337 – a continued NOI to construct a 7,400 square foot building with two paved access driveways, paved parking and access on three sides of building, and a gravel storage area to the rear and side of building. Continued from March 9, 2021 meeting;

Mr. Chris York of Millennium Engineering, representative for Kevin Whitney, discussed changes made to the plan based on feedback from the Committee. Members of the Committee asked questions regarding limit of work not shown on plan, desire to not have uncovered soil on the site, type of loam and seed needed, native species shrubs to be planted on site, amount of trimming to root system of trees and how to preserve them during construction of the retaining wall. Ms. Rimmer recommended a special Condition to tag trees to keep them from being damaged or cut down, that native shrubs should be the type planted on site, and that shade mix be used. Another Condition suggested by Ms. Rimmer was for monitoring during construction of site. A Motion to approve with conditions of shrub planting and spacing and site monitoring was made by Mr. Lord, seconded by Ms. Rimmer. Unanimous vote. Mr. Holt will tighten up the language on the Conditions.

Doug and Shay DeAngelis (110 Hay St.) DEP# 050-1350 - an NOI to construct a seasonal gangway and floating pier from their property.

Ms. Rimmer abstained from discussion as she previously did work for the applicant. Mr. David Smith of GZA, representative for the DeAngelis' discussed comments from the Mass Division of Marine Fisheries, including comments about float and gangway removal procedure. After those comments, Mr. Holt suggested that a 10A Harbormaster permit should be a Condition of the plan. Mr. Lord suggested a float down river for removal method for the floating platform. Mr. Smith stated that removal would be done

only at high tides and gangway would be rolled up the slope. Mr. Smith and Mr. Holt discussed back and forth the various issues and resolutions for the gangway. The question of whether or not the Trustees of Reservations owned a portion of land near gangway was answered that they do not own, the applicants own the section of land. There was a robust discussion following this regarding walking on the marsh, ACEC impact during removal of float, when and how to move the float safely. Mr. DeAngelis is amenable to discussing with Mr. Holt any issues with project. Mr. Smith suggested lifting gangway onto a float and towing it to bridge to lift up for removal, Mr. Holt stated DPW would have to OK that plan. Motion to Continue until the April 20th, 2021 meeting made by Mr. Lord, seconded by Mr. Paicos. Unanimous vote, with Ms. Rimmer abstaining.

Justin Leonard (3 Southern Blvd.) DEP# 050-13## -a continued NOI to restore an existing small parking area.

Mr. Holt stated that Mr. Leonard's provided sketch was received, but he did not have enough time to send it to the Committee. Still waiting on a DEP number as well. Motion to Continue to April 20th, 2021 meeting by Mr. Lord, seconded by Mr. Paicos. Unanimous vote, Ms. Rimmer abstained.

The Governor's Academy (1 Elm St) – a request for a minor Modification of an OOC to apply fungicide to buffer zone area and to extend the existing Order of Conditions.

Ms. Rimmer returned to the meeting. Wendy Reed of the Governor's Academy, representing the applicant gave her presentation of the process of applying fungicide to the areas described including inside the buffer zone. Questions regarding type of fungicide, application of the fungicide, it's half-life, what happens to the turf if it is not applied, and safety of the surrounding areas treated with it. Ms. Rimmer asked for time to read about the fungicide and any issues with it. Ms. Reed of Governor's is also requesting an extension of the OOC. Mr. Colleran asked for public comments, none made. Motion to continue for Modification of OOC to the April 20, 2021 meeting made by Mr. Lord, seconded by Mr. Paicos. Motion to approve the Extension of OOC made by Mr. Paicos, seconded by Mr. Streeter. Unanimous vote.

24 (was 22 Old Rowley Rd) – Cert of Compliance for Order of Conditions

Mr. Holt stated that old CoC for an OOC was found during a Title search. OOC is in file, he looked at the site, which appeared to be in order and he recommends closing out the CoC. Mr. Gahagan made a Motion to do the Cert of Compliance, Mr. Lord seconded. Unanimous vote.

Kassandra Galipeau (25 Northern Blvd)- Continued from earlier in meeting. Mr. Dick consulted with his clients regarding reducing the size of bedroom to meet FAR requirement and will submit revised plan to Conservation Commission. An abutter, Mr. Dale Beaudoin, asked about the deck roof affecting FAR, Mr. Holt answered that FAR is a concern of Zoning Board, not Conservation. Mr. Gahagan asked for Motion for a negative NOI, but Ms. Rimmer then asked for a Motion to approve the OOC subject to revised plans showing corrected FAR prior to OOC approval, seconded by Mr. Paicos. Unanimous vote.

Emergency Extension- Town of Newbury Nearshore Disposal Site – Sand from the Piscataqua River is being provided to deposit on Town beach land. No public comments. Motion to approve for Emergency Extension by Mr. Lord, seconded by Mr. Gahagan. Unanimous vote.

Emergency Certificates – Discussion of referenced properties. Mr. Holt was informed that when dune grass starts growing, that is what was done in the past. Also, Merrimack Beach Alliance is the same question of what to do and can they issue Emergency Certs. Ms. Rimmer stated that criteria for those Certificates must be issued by an agency and done within 30 days. Mr. Holt stated that at 4 and 6, sand was up against a house and dune grass was lost. Previously, the Conservation agent would have said to move the dunes and replant dune grass, according to Mr. Streeter, and he said that all 3 locales on the list had issues. 4-6 had NO vegetation for 10 years. He suggested that the Emergency Cert be issued, but that an NOI is needed for further maintenance, and that more specifics needed before issuing the Cert. Mr. Holt stated he wanted to make sure of the NOI, state that this is just moving sand.

Other Business:

Tom Hughes/105 High Rd. – Mr. Hughes of Hughes Environmental representing the applicant stated that the Planning Board was reviewing the project and that there is a proposal for an OSRD. He came to Conservation Commission for an NOI for open space only, for 6 parking spaces, and rear part of open space has wetlands at front and back. The Committee requested copy of drone flyover for review. Ms. Rimmer had to abstain as she had previously done work for the property owner. An evening site walk was planned earlier, Mr. Hughes stated that 5 pm on the provided dates would work for him.

Proposed Inland Wetland Bylaws- Mr. Colleran stated that a Citizen's Petition was added to the spring Town Meeting warrant requiring 2/3 vote of Town Meeting for approval of any changes to the Town's wetland bylaw. Committee would be talking about the bylaws in Spring, per Town Administrator email, due to a Citizen's Petition. Mr. Gahagan stated that it was decided that the proposed bylaw changes are not complete and would be put off until Fall 2021. Town Meeting to allow discussion and public comment.

Beaver problem- Adams Ln. and Middle Rd.- Mr. Holt asked for an Emergency Cert to open dam and trap the beavers for release elsewhere. DPW can use pitchforks to break up beaver dam, no power tools used, controlled release of water and try to find permanent solution as part of Cert. Ms. Rimmer stated that the Cert would have to be ratified later. Motion to allow Emergency Certificate for beaver and dam removal, seconded by Mr. Paicos.

Motion to adjourn meeting made by Mr. Holt, seconded by Mr. Gahagan.

Meeting ended at 11:32 pm.

Respectfully submitted,
Cathy Brown