

**Town of Newbury  
Conservation Commission Meeting Minutes  
Conducted via Zoom  
April 20, 2021 @ 7:00 p.m.**

**Roll Call:** Bill Holt, Ben Gahagan, Brian Colleran, Bill Lord, Dan Streeter. Mary Rimmer arrived later, Peter Paicos was absent, Kevin Stromski was absent.

Meeting started at 7:05 pm

**Public Hearings:**

**U.S. Fish & Wildlife Service-DEP# 050-1349** – an NOI for Salt Marsh restoration between 3<sup>rd</sup> parking lot and maintenance building, west of Refuge Road, Newbury. Continued to April 20<sup>th</sup> 2021 Meeting.

As there was no representative for USFWS, a Motion to continue to the May 11<sup>th</sup>, 2021 meeting was made by Mr. Streeter, seconded by Mr. Gahagan. Unanimous vote.

**Nathan Gray (21 Cottage Road) DEP# 050-13##** - Mr. Gray requested a continuance to the May 11<sup>th</sup>, 2021 meeting as he still does not have a DEP number.

Motion to continue was made by Mr. Lord, seconded by Mr. Streeter. Unanimous vote.

**David Manty (0 Pine Island Road – Map R30, Lot 5) DEP# 050-1330** – a continued NOI to construct a dock/pier, ramp, and floating dock within salt marsh resource area and ACEC.

Mr. Manty requested a continuance to the June 1<sup>st</sup>, 2021 meeting. Ms. Rimmer had arrived at this point. She stated that if a plan is not in place for June 1<sup>st</sup> meeting, that applicant should consider withdrawing and refile when they have a plan. Motion to continue to the June 1<sup>st</sup>, 2021 meeting made by Mr. Gahagan, seconded by Mr. Streeter. Mr. Holt has been asked to communicate with Mr. Manty regarding move to June 1<sup>st</sup> meeting as to why he needs more time.

**Justin Leonard (3 Southern Blvd. Plum Island) DEP# 050-XXXX** - a continued NOI to restore an existing small parking area – Continued from March 9<sup>th</sup>, March 30<sup>th</sup>, and April 20<sup>th</sup> meetings- applicant still does not have a DEP #.

Mr. Holt stated that a revised drawing had been received but he did not have time to send it to the Committee as yet. He suggests that an enforcement order may be needed to allow the applicant to fix the illegally installed driveway on his property. Mr. Streeter recommended a “friendly” enforcement order to start. Mr. Colleran stated that this matter has been on agendas since the summer of 2020. Ms. Rimmer suggested that the continuances may be an attempt to avoid fixing the site. Mr. Holt stated that plan is for restoration of property damaged by

installation of illegal driveway. Mr. Colleran suggested that Mr. Holt have a discussion with Mr. Leonard about this issue. Ms. Rimmer wants Mr. Leonard to appear at the May 11<sup>th</sup>, 2021 meeting to explain all the delays and that if he does not that an enforcement order should be issued. Motion to continue to May 11<sup>th</sup>, 2021 meeting and Motion to applicant to appear at that meeting or Conservation Commission will issue enforcement order made by Mr. Colleran, seconded by Mr. Lord. Unanimous vote.

**Town of Newbury – Municipal Bath house ( 31 Plum Island Tpk.) DEP# 050-1368** - an NOI to perform interior work and to install a handicapped-accessible ramp;

Mr. Holt spoke about the project particulars, stated that the value of the property may go over the 50% improvement point with the current plans to renovate building to create the ADA-accessible bath house. Ms. Rimmer suggested continuing the matter until a DEP number is issued and to see if a waiver will be needed for the building value.

Ms. Janice Forest, member of the Plum Island Beautification Committee asked a few questions about parking at rear of building, landscape planting area and if it will be removed, outside water connection for watering plants. Mr. James Sarette of the Newbury DPW suggested that P.I. Beautification Committee can work out with the town in regards to watering plants. Mr. Colleran asked about condition of the building, Mr. Sarette stated it is in good shape and needs to be gutted and partitioned for bathrooms. The outdoor foot wash will be outside building unless a water collection problem occurs.

Motion to Continue to the May 11<sup>th</sup>, 2021 meeting made by Ms. Rimmer, seconded by Mr. Gahagan. Unanimous vote.

**Christopher and Amy Christuk (22 Temple Blvd W.) DEP# 050-1352**- an NOI to replace an existing single-family home with a solid foundation with a new home elevated on piles and install a gravel or clamshell driveways and walkways and associated work;

Tom Hughes of Hughes Environmental and architect Aileen Graf appeared as representatives of the Christuks. Mr. Hughes detailed the plan and addressed the concerns of direct abutters Jeanne Anderson and John March on Temple Blvd. He stated that Mr. Eddie Boyle's suggestions of pre-blast survey will be done, seismologist on hand during pile driving will be used as part of plan. Mr. Holt asked about the limit of work shown on plans and asked if a snow fence can be installed. Mr. Hughes stated that he's waiting for a DEP number so that his Conservation plan and concurrent Zoning Board of Appeals plan can all be wrapped up at the same time.

Public comments from abutters Ms. Anderson and Dr. March on Temple Blvd made regarding being only 30 feet from corner of construction site, pile driving 50 or so piles in total, potentially causing foundation damage and what recourse would they have if damage occurred. They consulted Mr. Boyle, pile driving specialist on PI, who suggested foundation survey and seismologist on site. Ms. Graf gave details on pile depth. Mr. Hughes stated that the contractor would refine pre-blast survey, if risk found, seismologist would stop rig if shaking were a problem, and that Conservation could condition this plan as part of approval. Motion to

continue to May 11<sup>th</sup>, 2021 meeting made by Mr. Gahagan, seconded by Ms. Rimmer. Unanimous vote.

**The Governor's Academy (1 Elm St) DEP# 050-1248** – a request for a Modification of an OOC recorded on 4/24/18 in Book 36697, Pg. 462 at Southern Essex Registry of Deeds. Continued to April 20<sup>th</sup>, 2021 at 7 pm Meeting;

Mr. Holt had previously sent out to members the information he found on the fungicide to be used and commented that it may have an impact but doesn't feel qualified to evaluate the impacts. Mr. Gahagan stated that the fungicide can move readily into aquatic environs and affects the ground environs as it kills the fungus, the fungicide won't stay where it's applied and is concerned that there is water all around application site. No one from Governor's Academy was present at meeting to discuss particulars. Motion to continue to the May 11<sup>th</sup>, 2021 meeting was made by Mr. Lord, seconded by Mr. Gahagan. Unanimous vote. Mr. Holt will follow up with Mr. Gahagan's information on fungicide.

**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 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;

Mr. Gahagan asked if there were any other submittals. Mr. Zahouriko stated nothing new on plans, still working concurrently with Planning Board. Mr. Zahouriko listed the changes to the plan to mitigate runoff, revegetation, grading on Lot 3, expanded stormwater discharge area being added to plan.

Mr. Lord made a Motion to continue the above 3 items for Zendko, LLC to the May 11<sup>th</sup>, 2021 meeting, seconded by Ms. Rimmer. Unanimous vote.

**Duane Cromwell (11 Jackson Way) DEP# 050-1351** – an NOI to perform renovations on an existing single-family dwelling – Continued from March 9<sup>th</sup> and April 20<sup>th</sup>, 2021 meetings.

Mr. Bill Barrett, representative for the Cromwell's, described revisions made to the plan and stated that a DEP number was finally assigned. Mr. Holt agrees that the changes made to plans were what the Committee asked for and received. No other members had comments. Mr. Jeff Roelofs, representing the Cromwell's had received copies of plans earlier in day and reviewed them. He had no comments to add regarding the plans. Motion to close public hearings and approve project made by Ms. Rimmer, seconded by Mr. Gahagan. Unanimous vote.

**Doug and Shay DeAngelis (110 Hay St.) DEP# 050-1350** – an NOI to construct a seasonal gangway and floating dock from their property- Continued from March 9<sup>th</sup> and March 30<sup>th</sup>, 2021 meeting;

Ms. Rimmer abstained from discussion as applicant was a previous client. Attorney Jeff Roelofs represented Mr. DeAngelis for regulatory issues of the project. Mr. David Smith, P.E., represented the applicant on design issues, submitted supplemental drawings to show gangway removal method. Mr. Holt observed site at high tide and stated it is possible that there would be very little effect on the salt marsh with removal of float and that there is still some old paving from the old bridge abutment was located. Mr. Gahagan stated his concerns about dock removal and effects on the ACEC area haven't even been covered and Commission should be consistent in regards to Town-wide float/dock removal. Concerns about monitoring the twice-occurring removal and installation of float and gangway, water levels being high enough not being discussed. Mr. Smith stated that the concrete abutment would be installed north of the ACEC, erosion control installed above marsh during construction. Committee members suggested stronger erosion controls. Mr. Lord suggested double row of hay bales for erosion control.

Attorney Roelofs suggested that a special condition could be included in an OOC which required site visits for witnessing installation/removal of float and gangway, and if not satisfied, issue an OOC to adjust removal process. Mr. Gahagan stated that in 10 years will the process still be done correctly and what would a new owner do to the float/gangway. Mr. Streeter mentioned other recently approved docks were deep water docs. Mr. Colleran agrees with Mr. Gahagan about future owners' potential for accidents. Mr. Gahagan suggests that with pending plan for future monitoring and erosion control revisions needed that the project be continued. Motion to continue to May 11<sup>th</sup>, 2021 made by Mr. Gahagan, seconded by Mr. Lord. Unanimous vote.

**Commission Discussion:** Bylaw discussion

Commission discussed the Citizen's Petition presented to Town that would require a 2/3 or more yes vote to approve changes to the bylaw. Ms. Rimmer questioned how a vote could be taken on something not yet proposed. Mr. Holt suggested someone from the Commission should attend the Town Meeting to discuss the proposed bylaws to the public. The bylaws vote was postponed to provide feedback from the public. Mr. Gahagan suggested waiting until Fall 2021. Mr. Lord said he spoke with several people who asked "Why change anything?" Mr. Gahagan volunteered to be representative from Committee at Town Meeting, but asks for bullet points to discuss at meeting. Mr. Holt stated that would need approval prior to Town meeting.

## **Certificates of Compliance:**

**11 Bayview (Morse) DEP# 050-0359-** A request to close out a Cert of Compliance Open COC found on title search prior to real estate closing. Mr. Holt stated that work was never done. Motion to close out the Cert of Compliance was made by Ms. Rimmer, seconded by Mr. Gahagan. Unanimous vote.

**11 Finnegan Way (Jones) DEP# 050-0312 –** A request to close out a Cert of Compliance Mr. Holt stated that records for this COC were lost due to flood at Town Hall. He did a site visit to determine if work was done, such as keeping the site clean and well maintained after remodeling as conditions and was satisfied with the condition of the site. Motion to approve the Cert of Compliance was made by Mr. Gahagan, seconded by Mr. Lord. Unanimous vote.

## **Extension Permits: None**

**Emergency Certificates:** None

**Re-Issuance:** None

**Other Business:** Beach Cleaning proposal discussion on required filing.  
Piping Plover preservation by Carolyn Mostello of Mass Audubon

Information on annual “Beach Management” work conducted by Bob Connor; he files with the Selectmen. The Beach Management plan expired in 2014, but Mr. Connor has offered to continue to do beach cleaning. There was discussion of whether an OOC is needed. Mr. Holt stated that Town Counsel wants him to file an OOC and that Mr. Connor will try to file for the May 11<sup>th</sup>, 2021 meeting. Mr. Lord stated that the beach cleaning done by Mr. Connors is done with large raking machines, not like the expired beach plan. Ms. Rimmer suggested an RDA. Mr. Holt has to ask for guidance from DEP and town Counsel says Mr. Connors needs to go to Conservation. Ms. Rimmer asked about the timing of nesting of Piping Plovers and type of equipment used to clean beach. Mr. Colleran stated an RDA, then an NOI should be done, so that biologists have their say about the time of the year for the birds. Ms. Rimmer was uncomfortable with not getting National Heritage approval first and wants the NOI for Beach Management, and she would assist Mr. Connor in doing the NOI.

Motion to adjourn meeting made by Mr. Gahagan, seconded by Mr. Streeter. Unanimous vote

Meeting adjourned at 10:25 pm.

Respectfully submitted,  
Catherine Brown