

Town of Newbury  
Conservation Commission Meeting  
Via Zoom  
Tuesday, October 20, 2020

Present: Brian Colleran, Ben Gahagan, Bill Lord, Daniel Streeter, Kevin Stromski, Peter Paicos and Agent Bill Holt

Meeting opened at 7:02

Public Hearings:

Agent Holt stated for the record that this meeting is being recorded. There was a glitch in the recording of the last meeting (October 7, 2020) and it is not available for public viewing.

**Town of Newbury (14<sup>th</sup> Street) DEP 050-13##** - a continued NOI to improve the right of way and construct an emergency access driveway. Chairman Colleran opened the hearing by stating that in the interest of keeping things moving each side will be given the opportunity to be heard and each member of the board will be able to comment. This project is in the introductory phase and no decisions will be made tonight. We will plan a site walk and a special meeting dedicated to only this project. Tom Hughes of Hughes Environmental, on behalf of the Town of Newbury Select Board, pointed out that this project has been readvertised and a new list of abutters has been mailed out. Lisa Mead, Town Counsel, Sean Malone, Civil Engineer, and Libby Belcher, specialist in environmental law was also there to speak. Ms. Belcher started by saying that we are looking at this project with fresh eyes. Under the Wetland Protection Act, work is allowed to be performed in the resource areas as long as certain standards are met. Alteration of coastal dunes do not have an adverse effect, such as waves having the ability to remove sand from the dunes, disturbance of vegetation to increase the instability of the dune, and modification of dune that would increase storm or flood damage. Performance standards under the local bylaws 94-5, standards A – H would not apply to this proposed area. There is no house being built and the work performed is 200 feet away from a primary dune. Tom Hughes took over and described the site as a street off Old Point Road that cuts across several parcels of Town land. Lot U-03-46, U-03-52 and U-03-51 use as access to their homes. The access road will cut through a short section of dune and end on the finished end of 14<sup>th</sup> Street. There is a pinch point of Northern Blvd, Southern Blvd, and Plum Island Blvd where they all meet. This project will be an alternative means of getting in and out in the event of an emergency. It will be used very infrequently. Work will start on the existing gravel drive, using clean sand and there will be no cut of the dune until reach elevation 13 and come down to match into 14<sup>th</sup> street. Mr. Hughes turned it over to Sean Malone, Engineer of project. This will be a 10-foot-wide emergency access drive to accommodate a fire truck with a 35-foot turning radius. The material for roadway will be gravel and there will be gates at each end of the access road. There will also be plantings to increase stability where areas were disturbed. Mary Rimmer of Rimmer Environmental, at 57 Boston Road, is representing a group of neighbors that are concerned about this project. She started by saying that this project was originally filed in 2009 with a DEP number of 050-0996. Is there a new DEP submission? There are several plan revisions but seems to all be piecemeal. Would like to see the most recent submission. Vine Associates did an alternative analysis in 2009. Ms. Rimmer wanted to know if the Commission was still working off the DEP number issued back in 2009 and if so, has the DEP been kept abreast of all of the changes. Ms. Rimmer also wanted the Commission to clarify if the local bylaws are specific to this project. Ms. Rimmer and the abutters believe that there are other less impactful options. Larry Hayes, Engineer for the abutters, spoke on the fact that the road

construction will not be capable of supporting emergency vehicles or any vehicle for that matter. He has seen four versions of the plan and still has many questions. John Lucey, Police Chief, sees a lot of benefit to this project. When an event occurs and everyone converges on the center, having this emergency road would greatly benefit in these situations. Lisa Mead, Town Counsel, said that there will likely be two different kinds of easements, temporary and permanent grading easement which the location has not been determined. Jerry Heavey, Select Board, said she had met with the abutters and determined that their property will forever be changed and not in a good way. Chairman Colleran and the Commission decided on November 5<sup>th</sup> @10:00 am for a site walk and there will be a special meeting on November 10, 2020 @7 pm. James Stewart of 22 Old Point Road told the Commission that he would like to have his comments heard at a later time. Alan Romano of 39 16 Tee Street told the Commission that his property will be impacted the most. It will destroy the whole side of my yard. He also added that 4<sup>th</sup> Street and 6<sup>th</sup> Street circumvent the center so there are alternative routes available at this time. A motion to continue the hearing until November 10, 2020 @7:00 PM was made by Mr. Gahagan and second motion made by Mr. Stromski. All in favor.

**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. No new updated to plan were presented. Mr. Lord made the first motion to continue until the November 24<sup>th</sup> 2020 meeting, Mr. Gahagan made the second motion. All in favor.

**Justin Leonard (3 Southern Blvd. PI) DEP #050-13##** - a continued NOI to restore an existing small parking area. Agent Holt was unable to connect with Mr. Leonard in regards to his restoration of his project. Chairman Colleran suggested a motion be made to move to November 24, 2020 meeting. Mr. Streeter made the first motion to continue, Mr. Paicos made the second. All in favor.

**Joseph Bavaro (3 Newburyport Turnpike) DEP #050-1336** – a continued NOI to construct a residential/retail building with parking area. T. J. Melvin, Engineer was there to speak on behalf of the applicant. Since last meeting we have revised the stormwater calculations to include the Cornell rainfall data. To provide the 44% pre-treatment we have removed the curb inlet and instead have done a trench drain into a contact CDS unit to achieve the pretreatment which will then discharge to the infiltration area. Agent Holt added that he had reviewed the updated drainage plan and saw it would function according to Stormwater Management. Chairman Colleran had a concern about the dumpster placement and where the stormwater from the dumpster would flow. T.J. Melvin said that it will pitch back towards the 10 feet by 6-inch-wide trench drain which according to the calculations would adequately handle the runoff. The site will be loam and seeded with grass. The Commission suggested that a more robust buffer be created by using additional plantings along the northern border of the wetlands. Mr. Gahagan made the first motion to continue to November 24<sup>th</sup> at 7:00 PM. Mr. Lord made the second motion. All in favor.

**Caleigh Mehan and Sean Lawless (43 Central Street) DEP #050-13##** - an NOI to construct an addition to an existing single-family home within the 100-ft buffer zone to a Bordering Vegetated Wetland. Mike Seekamp from Seekamp Environmental was representing the applicant. This is a 19 x 24 addition which will bump out to the left. No trees will be taken down and we show erosion control on the plan. Agent Holt added that the corner of the addition will be 25 feet from wetlands boundary. There are no other options for this to go. Agent Holt would like to see infiltrator units added to front of the roof for any runoff. Other options like moving the septic tank and the deck or make this a stand-alone building will have more of an impact on the property. Commission would like to see a plan for drainage. Mr.

Seekamp proposed trench drains, drip edge or downspouts. Motion to approve with conditions as directed was made by Mr. Paicos. Mr. Gahagan made the second motion. All in favor.

**Dale Myers of Alliance Newbury LLC (75 Boston Road) – DEP #050-13##** - an NOI to install solar panels, security fences, roadway improvements, drainage and associated utilities within the 100 feet of Bordering Vegetated Wetlands. Maureen Herald from Norse Environmental along with Dale Myers, solar expert was present. This is 26.9 acres of landfill and we propose to put 1456 solar panels. The property contains Bordering Vegetated Wetlands and 100-foot buffer zone. We have included erosion control, incorporating drainage ditches, and a construction entrance. The wetlands are very well defined, along Boston Road the drainage ditches have some wetlands vegetation. 448 panels will be installed on the westerly side of the site and 1008 on the easterly side. Town will be the direct benefactor of the solar panels. Mr. Gahagan made a motion to approve pending a DEP number being issued along with modifications by the Conservation Agent. Mr. Lord made the second motion. All in favor.

**Kevin Whitney of K & R Construction Company LLC (84 Boston Road) DEP #050-1337** – an NOI to construct a 7400 square foot building with two paved access driveways, paved parking and access on three sides of the building, and a gravel storage area to the rear and side of the building. Chris York from Millennium Engineering was there to represent the applicant. This is a 2.28 acre carved off piece of property from Newbury Self Storage. It is forested property. Mark West from West Environmental delineated the wetlands. This will be a 7400 Sq foot home office for a construction company. There are two driveways with a mix of payment and gravel. There will be private water and sewage. And there will be no grading within 10 feet of the wetlands. After going over the plans, Agent Holt said the drainage plan was a good one. It is a commercial site and the plan maximizes it's use. Mr. Gahagan was looking to see the wildlife habitat checklist that was not included. Mr. York said he will look into it and provide. Mr. Gahagan also suggested that the Commission do a site walk. The Commission was in favor of site walk and planned for November 18<sup>th</sup> @9:00 am. Mr. York will inform the applicant and Mark West of the time and date of site walk. Mr. Gahagan requested that Mr. York provide the ratio of how much of the total disturbed area occurs within the 100-foot buffer. Chairman Colleran requested that revisions be submitted no later than noon on the 19<sup>th</sup> of November so the Commission had time to review. A motion to move to continue until November 24, 2020 was made by Mr. Stromski, Mr. Streeter made the second motion. All in favor.

**Arthur D'Angelo (56 Cottage Road) DEP #050-1311** – a modification to an Order of Conditions to change the height requirements of a replacement walkway and dock system. Mr. D'Angelo was present and presented pictures of the 14 piles that have already been driven and how high they actually were. He expressed his concern with aging parents and his young grandchildren walking on the dock with the extreme height that the finished dock would be. Compared to all of the neighbors docks it will be an "eye sore". Agent Hold said that DEP had no height requirements. They suggest a 1 to 1 ratio with focus on protecting the salt marsh. Mr. Gahagan said that the DMF recommendations were a minimum of 1 to 1 ratio. These recommendations were fairly new, around 2018. Mr. D'Angelo told the Commission that he could live with a 1 to 1 ratio and would look into the Thru Throw decking that was suggested by the Commission. Mr. Paicos made the first motion to accept the modification with conditions per Conservation Agent, Mr. Stromski made the second motion. All in favor.

### **Other Business:**

**ACEC Policy**-Agent Holt informed the Commission that he had received the revised ACEC Policy document from Town Counsel. She has made a few revisions. She wanted the Commission to understand that this was a policy not a regulation. She also said making it a regulation would give ability to do more. Mr. Gahagan gave a summary of the policy for viewers to understand what the Commission was talking about. The Conservation Commission is investigating a policy to better direct us on how to handle new structures (piers and docks within the ACEC) within the Great Marsh and the Parker River. It will give all a better understanding of the link between the written policy and the 310CMR. Mr. Paicos and Mr. Stromski were happy to follow Mr. Gahagan's lead since it was his "baby". Mr. Streeter said there were things he still did not understand but this will give the Commission some clarification. Mr. Lord does not want to see the restrictions so tight that no one can ever repair, replace, or construct a dock. Mr. Gahagan has identified a loop-hole, now the applicant will need to get the green light from CZM and DEP and then the Commission will gladly approve the project at hand. Mr. Gahagan made the first motion to adopt the amended policy that was provided by Town Counsel effective as of this meeting, Mr. Paicos made the second motion. All in favor.

Mr. Gahagan made the first motion to close the hearing, Mr. Stromski made the second motion. All in favor.

Adjourned at 10:29 PM

Respectfully submitted

Gretchen E. Girard