

Town of Newbury
Conservation Commission Meeting Minutes
Location: Zoom Call
June 1, 2021

Meeting started at 7:04 pm.

Roll Call: Chairman Brian Colleran, Bill Lord, Peter Paicos, Dan Streeter, Ben Gahagan, Mary Rimmer

Items for Committee discussion:

Discussion to go back to 2 meetings per month

Mr. Gahagan made a motion to do 2 meetings per month with a 10 pm ending in September 2021, Mr. Paicos seconded. Vote was unanimous. Mr. Gahagan made a second motion to keep the 2-week prior to meeting submission deadline and that the new Agent, Committee Chairperson, and Administrative Assistant will enforce the deadline for submissions. Seconded by Mr. Paicos. Vote was unanimous.

Discussion regarding Conservation Agent search and departing Committee Members.

There was a brief discussion of the departing Committee members Kevin Stromski and Bill Lord, thanking them for their service to the Committee and wishing them well. Current information on the hiring process for the new Conservation Agent was shared with the Committee that a new hire was pending.

Jared Dombrowski (122A Main St.) - an RDA for construction of a replacement septic system within 100 feet of wetland resource area. (Item pushed to end of meeting as Applicant was not present).

Town of Newbury - Orchard St. Cart Creek Crossing Restoration – DEP# 050-1356 - an NOI to replace the culvert underneath Orchard St. at Cart Creek on a Public Way;

Mike DeRosa of DeRosa Environmental Consulting represented the applicant, Dan Crovo, who was present and Evin Guevendiren, also from DeRosa Environmental Consulting was available for comments. Mr. DeRosa presented the plan for the project.

Comments from Commission members included positives of the project, was widening road possible or not, were comments from National Heritage received, if project met Chapter 91 or not, was a bridge possible or not, and where would the detour run during construction. Ms. Rimmer asked about any time of year restrictions from Division of Marine Fisheries. Mr. DeRosa stated there are time restrictions for project. Ms. Guevendiren stated that MESA had not provided comments yet. Mr. Paicos asked if permission to put detour through Governor's was obtained, Mr. DeRosa stated that GDA was a client, he had not yet confirmed permission and would formally request the detour from them.

Additional comments included concerns about downstream flooding, and the time crunch to get MVP grant before end of June according to Mr. DeRosa. Additional discussion continued with comments about future sea levels, bank fill on creek, scour pools and how long project would last. Mr. Crovo addressed the concerns about height of road, foundation, and flood will not destroy the road. Mr. Colleran asked for public comments, there were none. Mr. Gahagan made a Motion to Continue to June 22, 2021 meeting. Seconded by Ms. Rimmer. Vote was unanimous.

Cricket Lane, LLC (55 Pearson Dr.) DEP# 050-1355 - an NOI to construct 24 single-family homes with 800 feet of roadway, common septic system, water lines, sewer lines, and stormwater management system. Roadway includes limited crossing wetland filling and replacement with work in the buffer zone;

Ms. Rimmer abstained from discussion of this project. Ben Osgood of Ranger Engineering represented owner Walter Eriksen at meeting, Maureen from Norse Engineering was present as wetland scientist. Mr. Osgood gave his presentation of the plan and stated the ANRAD had at least 1.3 to 2 years left on the plan. Project was approved by ZBA already, stormwater report was submitted and approved, wetlands report reviewed by Ann Marton of LEC Environmental and her concerns were addressed. Mr. Osgood and Mr. Gahagan had discussion regarding crossing/not crossing and impact to wetlands.

Mr. Colleran said he is not sure that impacts are jurisdictional or not, but is concerned about disturbed buffer zone, the vernal pool on Martin Burns Wildlife Management Area, that plantings are being restored, but had not discussed exclusionary measures like a fence. Mr. Colleran suggested those methods would be helpful and continued to discuss stormwater measures with Mr. Osgood, access for maintaining retention pond, and the replanting measures. Public comments were requested by Mr. Colleran.

Mr. Dan Linden, an environmental wetlands specialist with a doctorate and abutter on Pearson Drive was asked to speak for other abutters, asking what kind of feedback the public could have. He continued, stating that the isolated land subject to flooding is a vernal pool and that we (abutters) monitor the area and see evidence of a vernal pool, but Natural Heritage wants a longer study. Mr. Colleran stated that a site walk would be scheduled and that the abutter's group's attorney and scientist should send all communications to the board through the Admin. Assist., who will transfer the information to the Committee, then the Committee would review comments and discuss at next meeting. Bart's I-Phone (Mr. Bracken) at 69 Pearson Rd. asked if abutters could do the site walk with commission and where the water supply would come from, he was told that proponent would have to approve that request. Mr. Paicos recalled a Planning meeting where it was Byfield Water Dept. for source and that there was enough water. Mr. Colleran closed public comments at this point.

Mr. Colleran asked for a site walk to be scheduled for June 15th at 6 pm. Mr. Osgood agreed and stated he would let the Admin Asst. know if permission for abutters would be granted by Mr. Eriksen and his attorney for site walk. Mr. Colleran stated the discussion about the results of

the site walk would be done at another meeting. Motion to do site walk on June 15, 2021 at 6 pm and continue meeting to the June 22, 2021 meeting made by Mr. Paicos, seconded by Mr. Gahagan. Vote was unanimous.

Maura James (58 Old Rowley RD) DEP# 050-1230 – a minor revision to the OOC to install 2 large water tanks under the existing building to supply home with potable water.

Tom Hughes of Hughes Environmental represented Ms. James for this hearing. He described the situation on the site regarding the neighbor's well and how house was put on pilings so as not to impact well. The test well showed not enough water to sustain a home, so the solution was to place 2 large potable water tanks underneath house between pilings. Mr. Streeter asked how tanks would be supported and is property in flood zone. Mr. Hughes stated that concrete pad possible, crushed granite would give and that property is in AE 13 flood zone, water flows in and out at low velocity flow. Ms. Rimmer asked about when was OOC issued. Mr. Hughes stated OOC was done 2 years ago, and he will reach out to BOH.

Ms. James shared info about the tanks with BOH and their only concern was water delivery for tanks. Mr. Paicos was concerned about tanks freezing. Ms. James stated that some sort of insulation would be installed and tanks will have agitators to prevent freezing. Mr. Colleran asked for public comments. Mr. Casey McHale, next door neighbor says tanks are a fantastic solution, flooding is minimal, septic tank should have clean-out cap to prevent effluent from tank. Ms. Rimmer made a Motion that the change be approved as a Minor Modification and no change to the OOC was needed. Mr. Lord seconded. Vote was unanimous.

Marybeth and Larry Abbott (69 Southern Blvd.) DEP# 050-1358 - an NOI to replace a single-family home with a new single-family home on pilings, with associated site work;

Tom Hughes of Hughes Environmental represented the Abbotts for the plan presented to the Commission and informed them that new structure would be ZBA-compliant, that any flooding would be small and most of property is not in flood zone. Questions of clearance height for flooding and sand accumulation under structure were asked and answered. Mr. Colleran asked for public comments, there were none. Mr. Hughes asked if the Commission wanted to do a site walk of property, and that no DEP number received yet. The site walk was scheduled for June 7th, but several members stated they would do drive-by observation instead. Motion to Continue to June 22, 2021 meeting made by Mr. Gahagan, seconded by Mr. Streeter. Vote unanimous.

Marybeth and Larry Abbott (71 Southern Blvd.) DEP# 050-1359– an NOI to replace a single-family home with a new single-family home on pilings, with associated site work;

Tom Hughes of Hughes Environmental represented the Abbotts for this plan and Adam True, builder, was present for questions. Mr. Hughes stated the address is actually 71-75 Southern Boulevard but it is listed as just 71 on filing. He described plan to demolish old building and correct encroachment area onto next door lot, black locust tree removal, parking under

structure. Question from Ms. Rimmer regarding existing foundation type. Mr. True stated cinderblock foundation would be removed and Presby sand would be used to fill hole. Mr. Colleran asked for public comments, there were none. Mr. Hughes asked for continuance to June 22nd, as there is no DEP number as yet. Motion to continue to June 22, 2021 meeting made by Mr. Streeter, seconded by Mr. Paicos. Vote was unanimous.

David Daly (22 16th St.) DEP#- 050-1357 – an NOI to construct a new single-family home on pilings, with associated site work;

Tom Hughes of Hughes Environmental represented Mr. Daly. Eileen Graf (architect) and Matt Hamor (engineer) were also in attendance. Mr. Hughes gave his narrative, mentioning that lot is a large grandfathered lot near 20th St. on the Basin. No work will happen in rare species habitat zone, average setbacks per Building Inspector, and no encroachments involved, area with chunks of old paving to be cleaned up, steep drop to salt marsh, footprint will be small for Plum Island. Ms. Rimmer requested having corners staked out before next meeting. Mr. Colleran suggested a site drive-by instead of a walk, as site is easy to see. Mr. Hughes will send in pictures showing 4 staked out corners to the office. Mr. Colleran asked for public comments, only one person, M.Z. (Mickie Zahounie?) stated that Mr. Daly is a great neighbor, hires great contractors and talks with all abutters. Motion to continue to June 22, 2021 meeting made by Ms. Rimmer, seconded by Mr. Streeter. Vote was unanimous.

Matt Bailey (2 Low St.) DEP# 050-1354 – an NOI to perform landscaping and grade changes within the 100-foot buffer zones of a Bordering Vegetated Wetland in an area currently maintained as a lawn. Continued from May 11, 2021 Meeting;

Mike Seekamp of Seekamp Environmental represented applicant Mr. Bailey and owners Mr. Allen and Mr. Casey. Mr. Seekamp described site walk with Ms. Rimmer and came up with more detailed planting plan with native species only – removing Russian Olive tree and to fill in depression area to be flat. Ms. Rimmer stated that there were more wetlands in other areas of the site than described on plan and that OOC should reflect that. Mr. Colleran asked for public comments, there were none. Mr. Colleran asked outgoing Conservation Agent to do OOC paperwork prior to his departure. Motion to Approve the NOI by Mr. Lord and seconded with a Motion to close meeting to public hearing by Ms. Rimmer. Vote unanimous.

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. Continued from May 11, 2021 meeting.

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. Continued from May 11, 2021 Meeting;

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. Continued from May 11, 2021 Meeting;

Tom Zahouriko mentioned the Green Ash will be a red maple now and spruce tree on Lot 4 will also now be a red maple. He requests closure on Orders of Conditions for all 3 DEP numbers. The only comments from the Committee were positive and how they enjoyed working with Mr. Zahouriko. Motion to Approve all 3 NOIs and issue 3 Orders of Conditions as presented by Mr. Gahagan, seconded by Mr. Paicos. Vote was unanimous. Ms. Rimmer asked Mr. Zahouriko to keep Conservation Agent informed and give notice of what goes on in the buffer zone. Mr. Zahouriko stated he would send monthly reports. Mr. Colleran wanted to make sure pre-construction meeting with Agent should be a Condition in the OOCs.

Justin Leonard (3 Southern Blvd. Plum Island) (No DEP # Assigned) - a continued NOI to restore an existing small parking area – Continued from March 9th and March 30th meetings- still no DEP #. Continued from May 11, 2021 Meeting;

As Applicant has not received DEP number, Motion to continue to July 13th meeting made by Mr. Gahagan, seconded by Mr. Paicos. Vote was unanimous. Ms. Rimmer suggested the applicant should withdraw and have the Commission issue an Enforcement Order. Mr. Gahagan asked that Admin. Asst. call Mr. Leonard, ask him to withdraw the NOI and Commission would issue Enforcement Order, and to be present at the July 13th meeting.

Nathan Gray (21 Cottage Road) (No DEP # Assigned) - a continued NOI to remove wood shed, fabric-covered steel frame structure, and located within the wetland resource and restore wetland. In addition, construct a new shed and greenhouse in 100-foot buffer and remodel existing shed located partially within wetlands. Continued from May 11, 2021 Meeting;

Mr. Gray was not in attendance at the meeting and had no representative either. Mr. Colleran checked in on him, updates need to be done and Mr. Gray is trying to get contractors in line and sell his property. Mr. Gahagan made a Motion to Continue to the July 13th meeting, seconded by Mr. Lord. Mr. Gray is to appear at the July 13th meeting or withdraw his NOI and the Committee will issue an Enforcement Order.

Steve DeSalvo (16 & 20 Northern Blvd) DEP# 050-1364 - an NOI to nourish the dune in low areas with compatible sand estimated to fill an area 130 ft by 50 ft and 1.5 feet deep to ensure existing dune grass will grow, to plant additional dune grass, and to install sand fencing to encourage dune growth and stability; Applicant requested a continuance to the June 22nd, 2021 Meeting.

At the Applicant's request, a motion was made to continue to the June 22, 2021 meeting by Mr. Lord, seconded by Mr. Streeter. Vote was unanimous.

U.S. Fish & Wildlife Service DEP# 050-1349 – an NOI for Salt Marsh restoration between 3rd parking lot and maintenance building, west of Refuge Road, Newbury. Continued from May 11, 2021 Meeting and continuance to the June 22nd meeting was requested by applicant;

At the request of the Applicant, a motion to Continue to the June 22, 2021 meeting by Mr. Paicos, seconded by Mr. Streeter. Vote was unanimous.

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 (applicant requested a continuance) Continued from April 20th Meeting. Continuance requested from applicant's representative to the June 22nd, 2021 meeting;

Mr. Manty was at the meeting without his representative, Tom Hughes. He stated that Mr. Hughes sent out drawings to DEP and US Fish and Wildlife Service and was waiting for the next meeting. Motion to Continue to June 22, 2021 meeting by Mr. Gahagan, seconded by Mr. Streeter. Vote was unanimous.

There was a discussion on not entertaining hearings without DEP numbers as a Motion, but that it was not possible due to 21-day hearing rule when first applying to Conservation. Mr. Colleran stated that the Committee should have a policy that reserves the right to open and close and to continue if needed due to no DEP number. The Committee should consider Plum Island and administrative status approval for some PI projects with few or no issues. Mr. Gahagan suggested general policy of continuing hearing to next meeting until DEP number is issued, at the discretion of the Chairman. Mr. Paicos suggested that meeting length parameters should be set, that a 10 pm ending to meetings would be appropriate. The Committee then took up the first agenda item to address the lack of applicant appearance at meeting.

Jared Dombrowski (122A Main St.) – an RDA for construction of a replacement septic system within 100 feet of wetland resource area.

Motion to continue to the June 22, 2021 meeting made by Mr. Streeter, seconded by Ms. Rimmer. Vote was unanimous.

Mr. Gahagan asked if Committee should ask Town Administrator to get Bylaws onto the Fall Warrant.

Ms. Rimmer made motion to Adjourn, Mr. Gahagan seconded. Vote was unanimous.

Meeting adjourned at 10:10 pm