

Newbury Conservation Commission - Public Meeting Minutes
October 5, 2021

Members Present:

- ☒ Brian Collieran (Chair, joined virtually)
- ☒ Benjamin Gahagan (Co-Chair, ran meeting)
- ☒ Peter Paicos (Planning Board Liaison)
- ☒ Mary Rimmer
- ☐ Brad Duffin
- ☒ Dan Streeter
- ☒ Frank Wetenkamp (joined virtually)
- ☒ Samantha Holt (Agent)

Others Present: See attached sign-in sheet

7:06 p.m. Meeting Called to Order

- Minutes review: June 1, 2021; June 22, 2021; July 13, 2021; August 3, 2021; September 7, 2021; September 21, 2021
 - None ready for review, review/approval tabled

PUBLIC HEARINGS

5 Davoli Way (DEP File #050-1366) Barry Kaplan (Applicant)

Michael Seekamp (representative) presents a continued Notice of Intent Application for the listed location to raze an existing single-family dwelling and construct a new one on pilings. Discussion opened with comments regarding the enclosed storage area that is proposed partially below Base Flood Elevation, including a report on correspondence with the Building Commissioner stating that there are no potential building code violations seen on the plans. Dan Streeter raised questions regarding fuel storage and mechanical equipment on the property. Mr. Seekamp explained there will be no mechanical equipment, and stated that the propane tank will be marked on the plans. Mr. Streeter raised the question again from the previous meeting regarding the building code, and noted possible contradictions between the Building Commissioner's comments and what is stated in the WPA and the State building code, and there was discussion among the Commission members, Mr. Kaplan, and Mr. Seekamp regarding the issue of the two (2) feet of enclosed space below BFE. All parties came to the agreement for Mr. Kaplan to adjust the plans to reflect a partial wall that has at least 50% openness in the two (2) feet below BFE. Mr. Streeter also raised questions regarding materials for the footings/pilings. Mr. Kaplan addressed the size of propane tanks allowed, and Mr. Streeter brought up the vegetation restoration plan. Motion by Peter Paicos to continue the hearing until 7:00 p.m. on 11/2/21; seconded by Dan Streeter; Mary Rimmer abstained; vote 5:0:1.

7 Larkin Road (DEP File #050-1360) Coughlin Shea Builders (Applicant)

TJ Melvin (representative) presents a continued Abbreviated Notice for Resource Area Delineation for the listed location. There is request to determine if area within a resource area can be classified as Isolated Land Subject to Flooding. Mr. Melvin outlined the updates made to the ANRAD plans, including the associated Buffer Zone lines to the riverfront area. Motion by Mary Rimmer to issue an Order of Resource Area Delineation, referencing the plans revised through September 9, 2021; seconded by Dan Streeter; Frank Wetenkamp abstained; vote 4:1:1

Please note: Frank Wetenkamp left the meeting following the above hearing at approximately 7:50 PM.

38 Old Pine Island Road (RDA) Susan Finneran & Virginia Sykes (Applicant)

Tom Hughes (representative) presents a Request for Determination of Applicability. There is a proposal to remove the existing paved driveway and reconfigure a new driveway constructed with pavers, with a portion of the old drive being converted to a patio. There is a salt marsh boundary nearby, and the limit of work is outside of the 50 foot Buffer Zone line. The Applicant plans to use pervious pavers in the sections proposed, with the remainder being repaved. Mary Rimmer raised questions about erosion control, which Mr. Hughes outlined what would be

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used. Ms. Rimmer also raised a question about the ACEC area not being shown on the sketches, and Mr. Hughes explained it is not shown because the work proposed will not alter the function of the ACEC area. Brian Collieran mentioned a large tree seen on the aerial photos, Mr. Hughes noted that there will be no major impacts to it. Abutter Linda Nielson of 22 Seaview Lane addressed the Commission and Mr. Hughes with concerns of impact on the salt marsh. Mr. Hughes explained that the work would be limited to staying at least 50 feet away from the marsh, and Ben Gahagan explained that the patio area would be remaining within the footprint of the existing driveway. Ms. Nielson inquired as to why the project needed to go before the Commission, and Mr. Gahagan explained it was because it falls within 100 feet of the salt marsh line. Motion by Mary Rimmer to issue a negative determination with a special condition added that the "bump out" and "apron" areas be constructed with pervious pavers; seconded by Peter Paicos; vote 5:0:0.

0 Pine Island Road, Lot 5 (DEP File #050-1330)

David Manty (Applicant)

Tom Hughes (representative) presents a re-advertised continued Notice of Intent for the listed location. There is a proposal to construct a dock, ramp, and floating dock within salt marsh resource area and the ACEC. Mr. Hughes outlined the project, including the construction design and plans, requirements met, agencies notified, and a locked security gate installed on the dock. Mr. Hughes also noted the comments made by DEP during the review process and the revisions made to comply with requirements. Brian Collieran raised questions of security of the dock in inclement weather/flooding/freezing. There was discussion between Mr. Collieran and Mr. Hughes regarding comparison to other similar projects. Dan Streeter raised questions regarding what would happen with the dock in the event that it is still fully installed but unused, Mr. Hughes suggested inclusion of a condition that in the event of a 10A Permit denial or failure to seek that permit, the dock shall be removed within a certain time frame. Mary Rimmer requested additional explanation of the comments received from other agencies, and raised comments regarding the note that this dock produces less impact than pulling a boat up on the marsh. Ms. Rimmer noted that pulling a boat on the marsh is not allowed anyways, which negates the argument that construction of the dock produces less impact. There was discussion at length between Mr. Manty, Mr. Hughes, and Ms. Rimmer regarding this argument, as well as the survey and data collection process and vegetation in the area. Ben Gahagan iterated his reasonings for not believing this to be a permissible project, with discussion on this subject from Mr. Hughes. Mr. Manty made comments regarding the lack of access to the property should the dock not be approved, and there was discussion between Mr. Manty, Ms. Rimmer, and Peter Paicos regarding this issue and the short- and long-term impact the dock may have on the marsh. Mr. Hughes made a suggestion to add a condition for annual reports describing the health of the marsh relative to the dock. Mr. Gahagan and Mr. Collieran agreed that they would prefer seeing a letter from CZM with comments on the dock to help inform their decisions, and Mr. Collieran made comments regarding the idea that denial of the dock would not disallow any activities but would only limit the time frame in which they could be done. Mr. Hughes agreed to reach out to CZM to get their comments prior to the next hearing date. Motion by Ben Gahagan to continue the hearing until 7:00 p.m. on 11/2/21; seconded by Peter Paicos; vote 5:0:0.

8 12th Street (DEP File #050-1369)

Michael Kirkpatrick (Applicant)

Mr. Kirkpatrick presents a continued Notice of intent to construct a 9' by 15' shed on pilings. Mr. Kirkpatrick opened the discussion by bringing up the issue of lot coverage on the property exceeding 20%. Mary Rimmer raised the question of whether that needed to be reviewed by the ZBA. Samantha Holt reported discussing the project with the Building Commissioner, the shed does not need building permits but Ms. Holt agreed to inquire about the need for ZBA review and the sequencing for approval. Ms. Rimmer commented on the vegetation in the area, and Dan Streeter raised questions regarding the construction materials and plan, as well as impacts to previously planted vegetation. Ms. Rimmer noted that if there is an open Order of Conditions from a previous project, that it will need to be closed out before a new one can be issued. Motion by Peter Paicos to continue the hearing until 7:00 p.m. on 10/19/21; seconded by Dan Streeter; vote 5:0:0.

Newbury Conservation Commission - Public Meeting Minutes
October 5, 2021

COMMISSION DISCUSSION ITEMS

Enforcement Orders

Samantha Holt presented an update on an open Enforcement Order for 21 Cottage Road, issued to Nathan Gray. Ms. Holt outlined the letter that was sent to Mr. Gray following the 9/21/21 meeting, and stated that she had received no follow up correspondence from hi. The Commission agreed to have Ms. Holt send Mr. Gray a second letter notifying him that this was his final notice to submit a schedule outlining the timeframe he plans to satisfy the remaining requirements in compliance with the Enforcement Order. The Commission agreed on a deadline of October 19, 2021 to receive the schedule, and if Mr. Gray failed to provide one that enforcement responsibilities would be handed over to DEP.

Other Business

Samantha Holt proposed the plan to schedule a special meeting of the Commission to discuss the proposed by-law amendments at the request of Brian Colleran. There was also some discussion regarding the return to fully virtual Zoom meetings. Ben Gahagan also outlined the discussion held with Selectboard Chair Greco and Town Counsel Attorney Lisa Mead

Meeting adjourned at 9:43 p.m.

Respectfully submitted,
Samantha Holt, Conservation Agent