

Newbury Conservation Commission - Public Meeting Minutes
November 2, 2021

Members Present:

- ☒ Brian Colleran (Chair)
- ☒ Benjamin Gahagan (Co-Chair)
- ☒ Peter Paicos (Planning Board Liaison)
- ☒ Mary Rimmer
- ☐ Brad Duffin
- ☒ Dan Streeter
- ☒ Frank Wetenkamp
- ☒ Samantha Holt (Agent)

7:04 p.m. Meeting Called to Order

- Opening remarks from Commission Chair Brian Colleran
- Minutes review: June 22, 2021; July 13, 2021; August 3, 2021; September 7, 2021; October 5, 2021; October 19, 2021; October 25, 2021
 - September 7 minutes not available
 - Motion by Peter Paicos to accept all available minutes; seconded by Frank Wetenkamp; vote 5:0:0

PUBLIC HEARINGS

55 Pearson Drive (DEP File #050-1355) Cricket Lane, LLC (Applicant)

This is a continued Notice of Intent to construct 24 single-family homes with 800 feet of roadway, common septic system, water and sewer lines, and stormwater management system. The roadway includes limited crossing of the wetland, wetland filling, and wetland replication, as well as work within the Buffer Zone. Ann Marton (peer review consultant to the Commission), Director of Ecological Services and Owner of LEC Environmental Consultants is present to provide her review of the project as proposed in the Notice of intent. As part of Ms. Marton's peer review she was provided with a list of questions from the Commission members, to which she returned brief written responses prior to the hearing. Commission members had the opportunity to get clarification on the provided answers, as well as ask additional questions to Ms. Marton. Discussion was held between the Commission and Ms. Marton regarding stormwater concerns, wetland replication, work in the Buffer Zone, the wetland crossing, and the Order of Resource Area Delineation that was approved in 2019 for this property. Ben Osgood (project engineer) made responses to the discussion with Ms. Marton and held discussion with Ms. Marton and Ben Gahagan on stormwater concerns and work in proximity to wetland boundaries. Attorney Doug Deschenes (representative to Applicant) made comments regarding the 'A' series vernal pool area, and added statements that the Applicant will not be willing to change or redesign any part of the project and that they are requesting that the Commission close the public hearing at this meeting. Attorney Deschenes also made comments and held discussion regarding stormwater concerns, concerns for the protection of the 'A' series vernal pool, as well as potential implications of closing the hearing with issues still outstanding and unaddressed. Attorney Elizabeth Pyle (representing abutters) presented comments regarding letters she had provided to the Commission prior to the hearing. Patrick Garner (wetland scientist hired by abutters) made comments regarding studies and analyses he has completed on the 'A' series vernal pool. John Chessia (engineer hired by abutters) made comments regarding his review of the stormwater management plan. Mr. Osgood and Attorney Deschenes returned with comments to affirm the request to have the public hearing closed. There was discussion among the Commission members regarding whether or not the hearing should be closed, ultimately the determination was that the Commission is required to honor the request of the Applicant to close the hearing. Mr. Wetenkamp and Ms. Rimmer both abstained from the following vote. Motion by Ben Gahagan to close the public hearing for this project; seconded by Peter Paicos; vote 3:1:2.

9 43rd Street (DEP File #unassigned) Chris Connolly (Applicant)

Matt Steinel (representative) requested a continuance of the Applicant's behalf. Motion by Dan Streeter to continue the hearing until 11/16/2021 at 7:00 pm; seconded by Ben Gahagan; vote 6:0:0

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58 Old Rowley Road (DEP File #050-1230) Maura James (Applicant)

Tom Hughes (representative) presents proposed minor modifications to a previously issued Order of Conditions. There is proposed reconfiguration of the house bringing it closer to the wetland but still outside of the 25' line, in order to provide appropriate setbacks for the septic tanks. Motion by Peter Paicos to approve the minor modifications; seconded by Dan Streeter; vote 6:0:0.

7 Hutchins Way (DEP File #050-1370) Gerald Fandetti (Applicant)

The Applicant has requested a continuance. Motion by Dan Streeter to continue the hearing until 11/16/2021 at 7:00 pm; seconded by Mary Rimmer; vote 6:0:0.

0 Pine Island Road (DEP File #050-1330) David Manty (Applicant)

The Applicant has requested a continuance. Motion by Dan Streeter to continue the hearing until 11/16/2021 at 7:00 pm; seconded by Mary Rimmer; vote 6:0:0.

5 Melody Lane (RDA) Emily Corbato (Applicant)

Ms. Corbato is present, her contractor was unable to participate. Samantha Holt presents the continued Request for Determination of Applicability to install a 10kW stand-by generator anchored to a concrete base. The dimensions of the concrete pad are 30" by 50" by 4" thick and it will be placed on existing sand, and the generator will be raised on a 2' high platform. Motion by Mary Rimmer to issue a negative Determination of Applicability; seconded by Peter Paicos; vote 6:0:0.

Parker River Research Station (RDA) Inke Forbrich (Applicant)

Ms. Forbrich is present. Evin Guvendiren (representative) presents the continued Request for Determination of Applicability to install a single temporary research station for academic purposes within the salt marsh along the Parker River. Ms. Guvendiren addressed several questions and concerns expressed by the Commission at the hearing on 10/19/2021. The Commission had the opportunity to ask additional questions and hold discussion with Ms. Forbrich and Ms. Guvendiren regarding the footprint of the station, impacts on the vegetation, access to the station, and conditions for the project. Conditions for the project will be as follows: 1) The tower portion of the station may remain installed year-round for the duration of the project, the access boardwalk shall be removed by November 15th of each year and shall not be reinstalled until April 15th of the following year; 2) For the duration of the research project, the access boards closest to the shoreline shall be removed upon each exit from the project site to deter unauthorized access; 3) Access to the station shall only be made at high tides; 4) Planks on the access boardwalk shall be installed at and maintain a 1.5:1 height to width ration; 5) A summary report, including photos, shall be submitted to the Conservation Commission and/or its Agent each season on installation and removal of all structures as required in these conditions; 6) The station, including the tower, boardwalk, and any other approved structures or materials, shall be fully removed after five (5) years. Motion by Dan Streeter to issue a negative Determination of Applicability with the listed conditions; seconded by Mary Rimmer; vote 6:0:0.

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

Michael Seekamp (representative) presents the continued Notice of Intent to raze an existing single-family house and construct a new one on pilings. The existing native trees will be moved or replaced and beach grass will remain. Mr. Seekamp addressed previously voiced concerns of the Commission including one regarding enclosed area below Base Flood Elevation. He noted that to mitigate this issue the proposed structure has been raised by 2' to bring that area out of BFE. All other concerns were addressed and noted on the architectural plans. Motion by Mary Rimmer to issue an Order of Conditions with all standard special conditions for Plum Island; seconded by Dan Streeter; vote 6:0:0.

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COMMISSION DISCUSSION ITEMS

Certificates of Compliance

5 Perkins Way (DEP File #050-1192) Anthony Barbiris (Applicant)

The Applicant has requested a Complete Certificate of Compliance for an issued Order of Conditions to conduct wetlands replication. Mary Rimmer conducted the site inspection with Patrick Seekamp (representative) and noted that the only outstanding thing to address is to remove the erosion controls. Ms. Rimmer and Mr. Seekamp requested to have the discussion tabled until the Town of Newburyport has conducted an inspection and approved the work as completed. All Commission members agreed to table further discussion until the meeting on 11/16/2021 at 7:00 pm.

Enforcement Orders

21 Cottage Road Nathan Gray (Applicant)

Samantha Holt presented updates on an Enforcement Order issued to Mr. Gray. A letter was received from Bill Mannuell regarding a site inspection conducted at the referenced location and the level of compliance with the Enforcement Order. Mr. Mannuell made suggestions on further work needed to fully comply with the Enforcement Order. The Commission accepted the letter and agreed to have Ms. Holt issue a letter to Mr. Gray notifying him that remaining work outlined in Mr. Mannuell's letter shall be completed by December 15, 2021.

Meeting adjourned at 10:56 p.m.

Respectfully submitted,
Samantha Holt, Conservation Agent