



MEETING NOTICE POSTING & AGENDA

TOWN OF HULL

Pursuant to MGL Chapter 30A, § 18-25 all Meeting Notices must be filed and time stamped in the Town Clerk's Office and posted at least **48 hours prior to the meeting** (excluding Saturdays, Sundays and Holidays). Please be mindful of the Town Clerk's business hours of operation and make the necessary arrangements to ensure this Notice is received and stamped in by the Town Clerk's Office and posted by at least **30 minutes** prior to the close of business on the day of filing.

TOWN
CLERK'S
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| Board or Committee | Conservation Commission |
| Date & Time of Meeting | TUESDAY, June 14, 2022 at 7:30 P.M. |
| Meeting Remote Location | Remote Call-in meeting with Zoom: https://zoom.us/j/94388688581?pwd=M3dlTXpYUlhYUmxGYzlmR29tZzBWUT09 Meeting ID: 943 8868 8581 Passcode: 613828 Or Dial: +1 929 205 6099 |
| Requested By: | Chris Krahforst, Conservation Administrator |

This meeting is being held remotely by telephone as an alternate means of public access pursuant to an Order issued by the Governor of Massachusetts dated March 12, 2020 Suspending Certain Provisions of the Open Meeting Law. You are hereby advised that this meeting and all telephone communications during this meeting may be recorded by the Town of Hull in accordance with the Open Meeting Law.

Members Present: Paul Paquin, Chair, Tammy Best, Katherine Jacintho, Sam Campbell, Lou Sorgi
Members Absent: none
Staff Present: Chris Krahforst, Conservation Administrator, Renee Kiley, Conservation Clerk
Staff Absent: none
Minutes:

AGENDA

- 7:30 Call to order**
Review of Agenda, Meeting Procedure, and approved permit guidance
Minutes
- 7:35 12 Touraine Ave., Map 22/Lot 030. Opening of a Public Hearing on the Request for Determination of Applicability** filed by Michele Burke for work described as **install 180 ft simple stockade fence on east lot boundary. Abutter Notification:** RDA, not needed. **Resource Areas:** **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10'** (storm damage and pollution prevention, flood control). **Site visits done: 6/10-6/13.**
Representatives: None
Abutters/Others: None
Documents: Proposed Site Plan
No one present to present the project. Krahforst: This is a request to install a simple stockade fence on the east side of property, located in a FEMA AE 10 flood zone. Commissioner: It should be elevated 6 inches above grade for free flow of stormwater. Krahforst: RDA's can be conditioned with an annotation on the decision form.
Motion to issue a negative determination by Sorgi conditioned that it be 6 inches off the ground, 2nd by Campbell. Roll Call: Paquin-aye, Campbell-aye Best-aye, Sorgi-aye, Jacintho-aye.
- 7:40 18 Manomet Ave., Map 27/Lot 003. Opening of a Public Hearing on the Request for Determination of Applicability** filed by Marjorie MacLeod to determine if the area depicted on plan is an area subject to jurisdiction of the Wetlands Protection Act. **Abutter Notification:** RDA, not needed. **Resource Areas:** **Barrier Beach** (storm

damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10'** (storm damage and pollution prevention, flood control). **Site visits done: 6/10-6/14.**

Representatives: Richard Henderson, Marjorie MacLeod (owner)

Abutters/Others: None

Documents: Proposed Site Plan

Henderson: This all began in the spring of 2019 when an abutter alleged to own a portion of Ms. MacLeod's property at 18 Manomet remove a portion of her wall. The abutter received an Order of Condition to destroy a wall that MacLeod owned. It was based on an incorrect survey that the abutter had done. There was a lawsuit in land court that proved that the land in question was Ms. MacLeod's property. In the interim, the neighbor tore down about 15 square feet of a concrete wall. She is asking through a bad survey and a bad Order of Conditions that she should be able to restore 15 square feet that was destroyed with the same material and in the same place. It would not change the environmental area of the site. It seems unjust to require Ms. MacLeod to go through the NOI process since the survey was wrong, the Order of Conditions was wrong. We are just asking for the right to return the wall to the way it was. Commissioner: We don't know what you are saying is correct. Henderson: I filed the judgment from land court with the Planning Board. I gave it to Jim Lampke (Town Counsel). It is Ms. MacLeod's land and it wasn't supposed to be torn down. I sent pictures. Commissioner: I want to ask, I'm only looking at a 1st page of a judgment. Did you settle or was it a court order affirming an adverse possession claim? Henderson: It was. Commissioner: To make the record clear. When we ruled on the original Order the adverse possession was just a claim. We had evidence that the applicant presented title and they were the owner and the Commission issued the original Order of Conditions. It was in our rights to do so based on the material presented. I don't think a RDA is appropriate for restoring this wall. I think this requires an NOI. I don't have a problem with the wall. It is a little piece of wall in an AE 10 flood zone. Another Commissioner: Is it clear what is being proposed? Commissioner: There is still a 6 inch footing where the wall was. Henderson: We are just putting the concrete back on top of the remaining footing/wall. We are not expanding or altering what was there. Commissioner: Do you know clearly what they are asking for? Krahforst: I received an application asking if the area where the wall exists is under WPA jurisdiction. I responded to the applicant's representative if the applicant was asking if the area under WPA jurisdiction. This land is in the WPA resource area. The application was completed incorrectly and now he is asking if work being proposed requires an NOI. I have never seen any plans. I'm showing the pictures that are the applicant's exhibits. Henderson: The reason that I don't have plans is I'm trying to save Ms. MacLeod money for a problem that she did not cause. It's obvious from the pictures what is being proposed. You don't need a Philadelphia engineer to see what will be done. It's just restoring the same 15 square feet of concrete wall. Commissioner: An RDA was filed. Henderson: I filed an RDA because I thought that it was unjust to have to have an engineer engaged in this matter. It's unfair. There will be no change to the environmental area. It's putting back on the footing what was there. Commissioner: Our job is to understand what people are going to do. In this case your RDA was to determine if the area depicted on plan is an area subject to jurisdiction of the Wetlands Protection Act. You didn't ask to build a wall. At the very least you would have to file an RDA to rebuild the wall. Henderson: I know that it's in the WPA jurisdiction. Commissioner: It is a very small portion of wall. I don't think that we need to drag it out. Another Commissioner: The wall behind the lawn (shown in the exhibit picture) was 1/2 taken down. It is still partly there. Commissioner: We now know that the Commission can condition the RDA and for this we can condition our decision to say the wall will be returned to the same state before it was removed. Henderson: My letter has the dimensions in there. Another Commissioner: There is a history if the wall is in contention we must make sure that the paperwork is correct. The form has to ask the correct question. Krahforst: I don't have a correct RDA form signed. I do have a follow up letter clarifying that the applicant is seeking to restore the wall. Another Commissioner: If the Commission is okay with a proper RDA form signed that would be ideal. Another Commissioner: Is all the legal stuff related to this hearing finished? Another Commissioner: The title is finished and MacLeod is the owner. Commissioner: We need a plan for the wall work and a NOI. Should this be continued? Krahforst: What you have before you is a RDA requesting the Commission to rule on whether the area is under the jurisdiction. The Commission is required to rule on the application. Note that this decision is open for appeal. Commissioner: What about notification of abutters? An RDA does not require abutter notification. Another Commissioner: This project should require a NOI.

Motion to issue a positive determination by Sorgi, 2nd by Paquin. Roll call: Best-aye, Sorgi-aye, Jacintho-aye, Paquin-aye, Campbell-abstain.

7:50 1111 Nantasket Ave., Hull WWTF, Map 07/Lot 033 (SE35-1683) Opening of a Public Hearing on the Notice of Intent filed by Hull Sewer Dept. for work described as install ~200 lft gas main. Notification: proof provided. **Resource Areas:** **Barrier Beach**(storm damage prevention, flood control); **Land Subject to Coastal Storm Flowage: FEMA AE 13'** (storm damage and pollution prevention, flood control); **Buffer to a Coastal Bank** (storm damage prevention, flood control); **Buffer to a Coastal Beach** (storm damage prevention, flood control, pollution prevention, wildlife habitat); **Buffer to Bordering Vegetated Wetland** (flood control, pollution prevention, wildlife habitat). **Site visits done: 6/10-6/14.**

Representatives: Brian Kiely

Abutters/Others: None

Documents: Proposed Site Plan

Kiely: We are installing a new gas service to the plant. The old heating system ran on oil. We are upgrading to more

efficient equipment. Commissioner: Is everyone comfortable where it is? Krahforst: This gas main is through mostly impervious surfaces. There may be a small gassy area impacted.

Motion to issue an order of conditions by Sorgi with the special conditions that there is no increase in hard space to the work area, 2nd by Campbell. Roll Call: Best-aye Sorgi-aye Jacintho-aye, Paquin-aye, Campbell-aye.

- 8:18 114A Atlantic Ave., Map 53/Lot 041 (SE35-1689) Opening of a Public Hearing on the Notice of Intent filed by Bill O'Brien for work described as install paver patio in back yard. Notification:** proof provided. **Resource Areas:** **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 15**, (storm damage and pollution prevention, flood control). Possible **LiMWA Site visits done: 6/10-6/14.**

Representatives: O'Brien, Paul Mirabito-Ross Engineering

Abutters/Others: None

Documents: Proposed Site Plan

Mirabito, representing the applicant, presents the above project: This site was a subject of a project before the Commission about 2 years ago. That work was completed and a COC was issued. We are now proposing a permeable paver patio in the rear portion. They could withstand the weight of a light vehicle. The point of making them pervious is to allow stormwater and precipitation to percolate into the ground instead of causing runoff from the site. We propose three layers of pervious material under the pavers and an edge around them so they don't come loose. The plans show we are in an FEMA AE 15 flood zone. The ground elevation is at Elevation 12. It is in Land Subject to Coastal Storm Flowage. We believe that the installation of pavers would not impact the performance standards of the area wetlands resources. We did file an NOI so the neighbors would be notified. Commissioner: The only thing I would be concerned about is whether or not during storm over wash there would be an increase the water flow velocity to the neighbor in the front because of this project. There would no longer be any grass, sand, or hard pact. Commissioner: Is this area in a LiMWA? Mirabito: The site is In the AE zone, stormwater would rise in bigger storms to a depth of 3 feet. It is not a VE zone. With that much water, it wouldn't matter if the patio was pervious or impervious. The pervious pavers are there to recharge groundwater during a regular rainstorm. Commissioner: The pavers appear to go right up the property boundary. O'Brien: There is 3 feet proposed between the pavers and the lot line. Then there is 10-12 feet of grass between the houses. Commissioner: What is proposed to be in the planter area? O'Brien: A flower bed. Another Commissioner: A special condition should indicate that no stone dust shall be used with the paver installation.

Motion to issue an order of conditions by Sorgi with the special conditions that the pavers are to be permeable in perpetuity, no stone dust is to be used, that there is to be a 3' vegetated buffer zone, and a new hand annotated plan of record indicating "flower bed only", 2nd by Campbell. Roll Call: Sorgi-aye Jacintho-aye, Paquin-aye, Campbell-aye, Best-aye.

- 7:55 189 & 193 Nantasket Ave. & 0 George Washington Blvd., Map 37, Lots 002-004 (SE35-1614) Continuation of a Public Hearing on the Notice of Intent filed by Nantasket Dune Holdings, LLC for work described as demolish existing building and construct five-story building, after-the fact clearing of 0 George Washington Blvd., and construction of a parking lot; demolish golf course and construct parking lot. The scope of work the Notice of Intent has been amended to only include: construction of a parking lot. Site visit done: many times. The applicant has requested a continuance to June 28th at a time TBD**

Krahforst reported that an updated Stormwater Report was received 14 June and share with the Commission and peer-reviewer. Funds for peer review have been depleted and review has stalled. Krahforst has reached out to Applicant's representative on this matter. No word has been received back. Brodsky (representative) was present and confirmed that he has reached out to his client, but no word has be received back as well.

Motion to June, 28th TBD continue by Sorgi 2nd by Campbell. Roll Call: Jacintho-aye Paquin-aye, Campbell-aye, Best-aye, Sorgi-aye.

- 8:31 83 Edgewater Rd., Map 29/Lot 031. (SE35-1606) Opening of a Public Hearing to Amend the Order of Conditions to extend a permanent walkway requested by David Ray. Notification:** proof provided. **Resource Areas:** **Coastal Bank** (storm damage protection, flood control, wildlife habitat), **Buffer to a Coastal Bank** (storm damage protection, flood control, wildlife habitat); **Coastal Beach** (storm damage protection, flood control, marine fisheries and wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10'**, (storm damage and pollution prevention, flood control). **Site visits done: 6/10-6/14.**

Representatives: David Ray

Abutters/Others: None

Documents: Proposed Site Plan

Ray: The original proposed project would require obtaining a Chapter 91 license because of the walkway extension. We now propose to end the stairs at the walkway up to the deck which is outside of c.91 jurisdiction. Commissioner: Is this walkway to going out to the wall? Ray: There will be no walkway, it will be grass. Krahforst: This amendment proposes to do less. The applicant is doing this to remove the walkway in Chapter 91 jurisdictional lands.

Motion to issue an amended order of conditions as proposed by Sorgi 2nd by Campbell. Roll Call: Campbell-aye, Best-aye, Sorgi-aye Jacintho-aye, Paquin-aye

- 8:36 65 E St., Map 17/Lot 121. (SE35-1685) Opening** of a Public Hearing on the **Notice of Intent** filed by **Robert Oriel** for work described as **proposed additions and deck. Notification:** proof provided. **Resource Areas:** **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10** (storm damage and pollution prevention, flood control). **Site visits done: 6/10-6/14.**
Representatives: Robert Oriel David Ray
Abutters/Others: None
Documents: Proposed Site Plan
Oriel indicates that D. Ray will represent the project. Ray: We are proposing a small addition to the house on pilings and an addition in the front. The addition will be on a FEMA complaint foundation with smart vents with stairs leading down. Commissioner: Where is the AC unit going? Oriel: It will be adjacent to where the new addition will be. In the back, but raised. Ray: And elevated off the ground to meet flood requirements.
Motion to issue an order of conditions with the special condition that the ac compressor be moved behind the addition and be raise to be FEMA compliant by Sorgi, 2nd by Campbell. Roll Call: Best-aye, Sorgi-aye Jacintho-aye, Paquin-aye, Campbell-aye
- 8:45 Jacintho recused herself**
- 8:10 50 Wyola Rd., Map 39/Lot 120. (SE35-16XX) Opening** of a Public Hearing on the **Notice of Intent** filed by **Daniel & Colleen Quaile** for work described as **raze existing home, build new home. Notification:** proof provided. **Resource Areas:** **Resource Areas: Buffer to a Coastal Bank** (storm damage protection, flood control, wildlife habitat) **Site visits done: 6/10-6/14.**

Representatives: **Daniel & Colleen Quaile, Brad Holmes**
Abutters/Others: None
Documents: Proposed Site Plan
Krahforst: No DEP permit number issued for this project. The Commission opens hearing but informs applicant that a decision cannot be given because of the lack of a DEP permit number. Holmes describes project: The property contains a single family home in a buffer zone of a coastal bank. We are going to reconstruct a 2 story single family home. We are going to raze the current home and driveway and reconstruct within the same general foot print. The driveway will be relocated to the other side along with a new walkway and a proposed deck. All work is outside of the 25 foot buffer to the top of the coastal bank. Erosion control will consist of a staked silt stocking installed before any activities. Any disturbed areas would be revegetated with native coastal salt tolerate varieties. Commissioner: Will there be any drainage issues to the abutters? Holmes: We're not changing topography. Commissioner: Are you taking the pavement up that is now there? Holmes: Yes. Commissioner: Will there be any blasting into the ledge. Holmes: We are shifting the home over. There is a large ledge where the foundation is. We don't want to do any earth work. Katherine Jacintho: Is there intent to do anything with the existing fence? Holmes: There is a fence that is in tough shape and in the back. Jacintho: It might be hard to remove because of overgrowth. Holmes: It needs to be cleaned up. Jacintho: Do you intend to maintain the sewer pump in the current location. Holmes: The intent was to. Commissioner: It is over the property line. Jacintho: It may be easy to put it in the left side of proposed home. Holmes: We would be amenable to move it. Commissioner: We are not permitting any work to do something with the sewer. Quaile: We did include utilities in this application. If we were going to work on another lot we would have to file a new RDA or NOI. Commission asks applicant if they wish to continue. Holmes: Accept the continuation.
Motion to continue to June, 28th TBD continue by Sorgi, 2nd by Campbell. Roll Call: Sorgi-aye, Paquin-aye, Campbell-aye, Best-aye.
- 8:53 Jacintho Returns**
- 8:54 124 Atlantic Ave. Map 53/Lot 033. (SE35-1686) Opening** of a Public Hearing on the **Notice of Intent** filed by **Daniel & Colleen Quaile** for work described as **remove existing deck and build new deck. Notification:** proof provided. **Resource Areas:** **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 15,** (storm damage and pollution prevention, flood control). Possible LiMWA Site visits done: 6/10-6/14.
Representatives: Daniel Quaile
Abutters/Others: None
Documents: Proposed Site Plan
Quaile: We purchased this house 3 years ago. The house was in rough shape. It had a wrap-around deck. The original steps came up the left side of the house and sits on top of an existing retaining wall which is located about 18' from the seawall. The intent is the replace in kind and add a small 8 ft² extension with a minor change to pull the angled wall (shown on the plan) back and have the steps exist as a straight run towards the front. All creosote timber will be removed. We would like to replace and rebuild. Commissioner: It appears as represented. What is the deck being built on? Quaile: Pre-cast concrete piers. There are 4 sono tubes that heaved. It is similar to what is there but they will now be 4 feet below grade.

Motion to issue an order of conditions by Sorgi, 2nd by Best. Roll Call: Jacintho-aye, Paquin- aye Campbell-aye, Best-aye, Sorgi-aye.

10 minute recess

- 9:10 Adjacent to 27-53 Beach Ave., Maps 25 & 27. (SE35-1684) Opening** of a Public Hearing on the **Notice of Intent** filed by the **Town of Hull** for work described as **proposed primary frontal dune restoration and nourishment**. **Notification:** proof provided. **Resource Areas:** **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); Land **Subject to Coastal Storm Flowage: VE 14 and ae 12'**, (storm damage and pollution prevention, flood control). **LiMWA Site visits done: 6/10-6/14**
Representatives: Mitchell Buck
Abutters/Others: Freya & Dan Gordon, Bobby McEvoy, Charles Schaffer, Jim Dimento, Don Silverstein
Documents: Proposed Site Plan, Photos of site, project plan.

Buck presents project: This is a dune restoration project. We received our MEPA certificate for the project (#16553). Woods Hole has been working with the Town of Hull it is a CZM Grant funded project. The reason that the Town of Hull has been perusing dune resiliency projects due to the impacts of climate change; impacts of erosion and storm damage on habitat and property. Hull is the high 3rd highest MA municipality with respect to repetitive flood damage claims. 1/3 of the claims are concentrated along low lying areas adjacent to North Nantasket Beach where flood waters pool after rain and coastal storm events. The Town started working in 2015 to address climate change vulnerability and conducted an assessment which identified a number of these dune openings as priority for mitigation efforts. Most recently the Town restored the dune adjacent to 131-145 Beach Ave and at the end of A Street where a handicap ramp was installed. This project addresses one of the last most obvious areas of the degraded primary frontal dune. A major disadvantage of a non-continuous dune is flooding, Flooding causes danger to life and property, Non-permitted dune crossings violate the Wetlands Protection Act and weaken the dune system and the entire beach system. An example of both maintained dune crossing and unpermitted openings where shown. Photos showing degraded dunes leading to flooding and debris also shown: This is a shot after the Oct. nor'easter storm which knocked out power on Friday. You can see the beach debris wrack, sediment deposits, and storm damage. The Town is trying to restore a continuous primary frontal dune system which is its 1st defense against storm damage and flooding. The dune supplies sediment to the beach. Buck shows A Street project photos of before and after. We expanded the width and height of the dune. At the 133-143 Beach Ave project, the dune was restored and includes a public access way. This project is a continuation of the Town goal to restore the primary frontal dune. Buck reviews project goals and presents design: Restore 800 feet of the frontal dune at North Nantasket Beach near Malta St, match width and height of adjacent dune north and south of project area, remove hardscaping, close non-permitted paths. We want to match grain size at the site and plant with vegetation, improve beach access with improved permitted path at Malta, and create 2 new paths to allow access at either end of the dead-end street. The dune here is within the 50 foot Beach Ave layout. There are 2 unauthorized concrete patios built into the dune and a number of unauthorized paths. In the southern end, the dune is most degraded. The northern end of the dune will also need nourishment. In the southern area, opposite of 31 Beach Ave, we would remove the patio and restore the dune elevation to adjacent dune heights. The dune will be planted with native vegetation and we propose to create a new access path. There is another patio just north of the Malta Street entrance. The plan is to remove the hard structures here and restore dune as well at plant with native vegetation. The north portion of dune in the project area is wider and still has unauthorized foot paths. The plan is to fill in the unauthorized paths and create a uniform dune. At Malta Street and south, the lower Beach Ave dune volume and height is reduced. This area has flood pathways. The dune crest is about 15-16' at Malta St and about 13-14' at the end of lower Beach Ave. Woods Hole Group & Kleinfelder conducted a study to evaluated the N. Nantasket Beach frontal dune for storm damage and flooding vulnerability and determined the level of return-year storm protection. This level is reduced in the project area. Adjacent to 45 Beach Ave, we created a cross section profile using LiDAR data and it shows significant erosion in the area. In 2014 there was 25 year storm protection and now that level of protection has been reduced by half. Buck presents alternative analysis of dune design: 5 alternatives were looked at: 1. No action. The flood pathways would remain. The dune would continue to lose volume and continue to be highly vulnerable; 2. Maximize the height of the dune with a 2:1 slope. 2:1 slope is not compatible for this area because this design is too steep and the sand would spill onto adjacent beach lots or the road; 3. Dune restoration to construct the dune onto the beach at a 10:1 slope (preferred by Natural Heritage) would create an extremely wide dune that would extend all the way to the mean high water line and onto private beach lots; 4. Add a bioengineered core which is essentially a giant burrito-shaped sandbag. That wouldn't work. We would have to destroy a lot of dune to install it below grade. It would be very expensive. During storms, the erosion could expose and mobilize the bioengineered core and become a debris hazard; 5. Dune restoration using 3:1 slope on both sides of the dune is the preferred alternative. The dune would be constructed within the Beach Ave roadway layout and would include 2 new pedestrian paths. In the southern section, because we have a narrow corridor to work with, we can only go to an elevation 15 (about 4 feet high relative to Beach Ave). Further north we have more dune width to work with in the Town-owned layout. We would go to elevation 16 and maintain the 3:1 slope. This alternative will require about 800 cubic feet of sand. The proposed dune will have a narrow crest. The restored dune will be planted with native vegetation. Beach modeling from surveys shows a 5-10 year level of

protection in the southern section. Further north will be close to a 10 year level of protection. This is an improvement over the current conditions. Construction would be in the fall of 2023. The dune construction will take a week or 2 but the plantings could be delayed to more favorable planting conditions. More nourishment material will be needed for the southern end and as you head north less material will be needed. Construction will take place from the street side. No construction will take place on the beach. Commissioner: How are you going to put sand onto the dune where there is already vegetation? Buck: The sand will be put over the vegetation. Beach grass is adapted to live in the dune environment and can survive the burial proposed. A lot of the existing grass won't have an issue. We are going to enhance the vegetation. Another Commissioner: It's going to last 5-10 years. Do you mean that it will wash away in 5-10 years or it will protect up to a 5-10 year storm? Buck: The level of protection is against a 5-10 year storm, a 20 year storm would result in over wash. The recent October storm happened during low tide. A storm exceeding the magnitude of once every 10 years could remove the dune. The southern section would still remain more vulnerable. However, the Town intends to maintain and restore the dune after larger design storms. Any natural solution may not last. The Town will have to have a maintenance plan in place. Another Commissioner: Any road drainage issues from this design? How will it be handled? Buck: I don't think that there are any catch basins in the area. Krahforst: There aren't any in the area. Commissioner: Looking at other sections of the dune along all of Beach Ave for scale, there would be only 2 access points at most for this project area size. Why are there so many access points proposed? Buck: In this location, there are 2 dead ends at either side of this portion of Beach Ave. If you look at other sections of dune, for instance adjacent to 131-145 Beach Ave., this is a 400 foot stretch of restored dune. The one access point that we added there was about 300 feet from Coburn St. Because these are dead end streets and many unauthorized access paths, we have concerns that if we don't establish authorized paths, unauthorized foot paths will return/remains. Further by creating authorized paths where proposed, we minimize impacts to where protected nesting birds are located. We are waiting on our letter from Natural Heritage to help condition this project. We hope that it will come before the next Commission meeting. During the MEPA review, Natural Heritage was generally open to what we proposed. Freda & Dan Gordon, 51 Beach Ave.: There are no drains basins on Beach Ave. 53 Beach Ave always floods. It would be helpful if the dune project could mitigate this flooding issue. With respect to the proposed paths, people leisurely walk down the street and realize that they are stuck so they walk over the dune. That has been a concern. I question putting the path adjacent to 47 Beach Ave. instead of closer to the dead ends. People will walk across the dune rather than return back to the paths at Malta St. Buck: Originally, we did have the path further north, but it was moved to interfere less with highly active bird habitat. Gordon: This is the first year that we have supposedly nesting birds. We've never been roped off before. Bobby McEvoy, 33 Malta Street: The Patio predated the dune. It has been there since 1936. Beach Ave is a public way for common uses as a public way which are for vehicle traffic, foot traffic, etc... not for coastal dunes (restoration). The Town owns Beach Ave; deeded to them from the estate of Evan Jordan to be used as streets and roads. Where does dune work fall into the common uses as a public way? I don't see this (dune restoration on public way) happening anywhere else in the Commonwealth. Commissioner: The same way that roads sometimes have islands or shoulders with vegetation. Dunes are a just different kind of vegetation. It is completely proper for the Town to want to have dunes on the side of road. McEvoy: There is 25 feet wide of dune. It is obstructing the public way. It's not vegetation on the side of the road. Commissioner: If you see this as a legal issue please talk to Town Counsel. McEvoy: Why is it necessary to remove the hard surface? Is the Town planning on removing all the hard surfaces under the dunes from when they were built in the 90's? Why is the Town selecting which hard surfaces to be destroyed? Buck: The plan is to remove hard surfaces. By removing those hard surfaces you are restoring the dune environment. McEvoy: It's never been a dune habitat. It's always been a patio. Buck: Historically, this area was a functioning dune system. Maybe it wasn't a dune in 1936 but before it was. This area a barrier beach historically with a (functioning) dune system. McEvoy: Can that be documented? Commissioner: During Pre-human times it was a dune system. The Town owns the property. McEvoy: The title has not been verified. The Town has shown no documentation that they own it. We have had the property for generations. We do own the beach lot and we are potentially engaging in litigation regarding the patio. Commissioner: It's the same argument that was promulgated down at the other end of Beach Ave (adjacent to 133-145 Beach Ave). The Town takes the same position here as it does there. It's not a legal issue for us. It's not a Conservation issue. It's a Town Counsel issue. It's an issue between the Town, the board of selectmen, and how they want to deal with it. We are authorized under the WPA to make rulings pertaining to WPA issues. The Town has demonstrated color of title. Color of title means that the Town has a claim on the title. The Town clearly own this area. The question is whether the Town has the right to use it the way the Town proposes to use it. You're arguing on matters of restriction not ownership. The deed gives the Town color of title for 50 feet of Beach Ave. You're referencing the language in that title that says it should be used as a roadway. You are arguing a restriction on something that the Town owns. On the other hand, you are claiming that you own it because you've been using it of so long. You don't own it. You own the (adjacent) beach lot. McEvoy: You have never proven that we don't own it. Commissioner: We don't have to prove that you own it. McEvoy: The Commonwealth has the burden of proof. Commissioner: No they don't. We have the deed that says the Town owns it. You have to dispute the deed. McEvoy: Produce the deed. Commissioner: The deed is on record. You can go find it yourself. The Commission has the right under a color of title to make a ruling under the WPA. We enforce the rules that the Town has to operate under. We don't deem that they have the legal right to do it. We condition the project which informs the Town how to do the project. You're taking this up with the wrong people. We've heard (this argument) up and down Beach Ave. Hire a lawyer and take it to court. It has no bearing on the Commission's decision here. We are deciding the conditions by which the Town should operate if they decide to restore the dune in what they deem is their land. Buck: For the other Beach Ave project, the Order of Conditions was appealed, went to DEP. The Town received a Superseding OOC. There, a legal issue of ownership was raised and the Town went to court. The Town did demonstrate, based on the deed the Town presented, they own that stretch of

Beach Ave. The Town is confident that this applies to this project as well. If there wasn't a dune there in 1936 there is a dune there now. The way the WPA is written, if it's a dune now and if created it is protected under the WPA. The dune is on both sides and it does cover up the patios. You clear sand off these patios. If you didn't clear it off it would fill in and vegetate. The hard structures are within in the active dune habitat even if the dune has been altered by man. Dunes do migrate; they can be eroded, even if you have an artificial dune or no dune, if you create a dune, its dune habitat regulated by the WPA. McEvoy: I'm not trying to take frustration out on the Commission. It is personal for us. You are doing your job and it's not personal. I apologize for that. Commissioner: We understand that. Please take it up with Town Counsel. Charles Schaffer: Your choice of words matter. You are not restoring a dune, you are constructing a dune. "Unpermitted" paths is incorrect too as there is no permitting process. Commissioner: There is a permitting process. Schaffer: If there is a permitting process, I have requested that information for years. Please supply that in writing. If you can't supply that in writing, a better choice of words is by administrative decree that homeowners should not have paths. Your A Street ramp is not handicap assessable to the beach. The plans for what was built is not what you approved and have created an unsafe intersection. The path that you created at (adjacent to) 131 Beach Ave. is unusable, except by a mountain goat because the Town doesn't maintain it. They don't maintain anything. The Town is saying that people should walk 400-500 feet between paths. You don't have a continuations dune. Between A and L streets, you have a path for almost every house. You don't have a continuous dune. Thank you. Good Bye. Jim Dimento, 33 Beach Ave: This isn't the 1st (public) meeting on this project. The local residents attended an informational hearing that Chris (Krahforst) & Mitchell (Buck) held earlier. What was brought up then is that in the south end (of the project area) myself and my neighbors constantly have people trapped at the end of the street. Instead of walking across the nearby patio they will walk across the dune. Having the public paths to avoid that problem is reasonable. I wonder what restrictions and regulations could be made to mitigate the use the pathways and address the loading and unloading of people, chairs, and whatever else? It's dangerous when people head down to the ends of Beach Ave in this area. There is little turning radius. Folks will trespass in driveways. It is difficult for the residents. The street is not well marked, nor are there adequate signage for protecting the dunes. Town should put up signs that the dunes should not be crossed. I was hoping that there would be some protection so we don't have to police it ourselves. Commissioner: Most of these things should be taken up with the Police. I agree that if people are generally unaware. Commissioner: They are asking would we consider a pathway at the north end where the road ends. Another Commissioner: at both ends. Another Commissioner: People drive down to the path to drop off people and unload which may make the traffic issue worse. Buck: We can add no stopping and no unloading signs. We would have to get the Town to call that area a no stopping and no loading zone. It's not illegal to do that. However, this is not a Conservation issue. McEvoy: Conservation can't. Commissioner: We can move the paths but we're not traffic experts. Krahforst: As part of the project adjacent to 131-145 Beach Ave. part of the legal settlement was installing a sign that said no parking, no stopping, and no unloading. Part of the design and the location of the paths were based on nesting activities of plovers. I know that there was a resident indicating there were no nesting pairs in this area. There are there now and symbolic fencing has been installed. We have noticed a great increase in piping plover population. We are expecting more plover use now than in the past. We factored in a balance of access for the neighborhood so some residents would not have to walk as far as other homes. Fair access is based on distance. The proposed town-managed path location in the north is to keep it away from an active plover nesting area and provide fair beach access for the residents. Don Silverstein, 43 Beach Ave: For the nourishment material that is proposed, is it grain size compatible? The grain size used for the A St project is different from the beach sand. Why can't we match the sand better? Buck: The reason is it is very difficult to match compatibility from available sand sources. The biggest compatibility factor is grain size. Our analysis indicates the sand should be of medium grain size. Then we have to find a source. We can't mine the beach and it is very difficult to mine the ocean bottom for sand. We are limited to upland sources from quarries. We are looking at median grain size which is at least as big as what is there. It isn't exactly the same as what as there naturally. When storms start eroding the dune, the natural sand is more easily wash away than a slightly coarser upland sand source. We propose to use the same source as was used at the A St project. We need 800 cubic feet of sand. Silverstein: How do I contact you? Buck: If you reach out to Chris and he will give you my contact information. Krahforst: The sand used at the 131-145 Beach Ave area and A St projects have now been covered by wind-blown natural sand. It's no longer that orangey stuff which is now buried underneath. Buck: Good Point. The vegetation has been capturing the windblown sand. Krahforst: This hearing needs to be continued since we do not have a response from Natural Heritage regarding protective conditions for protected plover habitat in the area. Commissioner: We may want to revisit the pathway locations.

Motion to June, 28th TBD continue by Sorgi, 2nd by Jacintho. Roll call: Paquin-aye, Campbell-aye, Best-aye, Sorgi-aye, Jacintho-aye.

10:16 15 Bates St., Map 26/Lot 002. Opening of a Public Hearing on the **Request for Determination of Applicability** filed by **Kurt Spitz** for work described as **install x10' shed in rear of property. Abutter Notification:** RDA, not needed.

Resource Areas: **Barrier Beach** (storm damage protection, flood control, wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10** (storm damage and pollution prevention, flood control). **Site visits done: 6/10-6/14**

Representatives:

Abutters/Others: None

Documents: Proposed Site Plan

Krahforst: This project is to install a shed in the rear part of the property. The shed will be 6 feet from the property boundaries. Commissioner: It's a nice flat area in the back corner of the yard.

Motion to issue a negative determination by Sorgi, 2nd by Campbell. Roll Call: Campbell-aye Best-aye, Sorgi-aye, Jacintho-aye, Paquin-aye.

Certificate of Compliance Requests

11 Rockland Cir. (SE35-1336) Krahforst: I think that all documentation is in order. It did have drainage issues in the past. A French drain and corrections to the grading to the property has resolved these issues. A vegetated swale was installed that controls stormwater runoff and keeping runoff from impacting 17 Rockland Cir. Commissioner: Without observing during a rain event it's hard to evaluate functionality but with the residual sediment imprints observed it appears to be working as designed.

Motion to issue a certificate of Compliance by Sorgi, 2nd by Campbell. Roll Call: Best-aye Sorgi-aye, Jacintho-aye, Paquin-aye, Campbell-aye.

19 Atherton Rd. (SE35-1578) Commissioner: It has the required buffers, is permeable, no stone dust but it's not sand (between pavers).

Motion to issue a Certificate of Compliance by Sorgi, 2nd by Campbell. Roll Call: Sorgi-aye, Jacintho-aye, Paquin-aye, Campbell-aye, Best-aye.

45 Cadish Ave. (SE35-1641) Commissioner: There is a porch? Krahforst: Yes. It was permitted. We have an Order or Conditions on file for the porch. The porch addition wasn't carried over to these plans. Commissioner: It looks fine.

Motion to issue a Certificate of Compliance by Sorgi, 2nd by Campbell. Roll Call: Jacintho-aye, Paquin-aye, Campbell-aye Best-aye Sorgi-aye.

99 Bay St. (SE35-1337) Commissioner: This is a Certificate of Compliance for the house with the gabions. Commissioner: Do the plans match? Krahforst: They do match. Everything is built as proposed. The vegetated buffer is in good shape. Part of the permit was to add a securing wall beneath the home which was not constructed but that is less than what was proposed for the Order of Conditions. The As-Built plan reflects what was built.

Motion to issue a Certificate of Compliance by Sorgi, 2nd by Campbell. Roll Call: Paquin-aye, Campbell-aye Best-aye Sorgi-aye, Jacintho-aye.

547 Nantasket Ave. (SE35-1552) Commissioner: This was reviewed before and there was some concern about the current drainage. The Commissioner asked for a vegetated swale. What has been done may not meet the strict definition of a swale. There is a 6-8" trench. Commissioner: It is a trench and I don't know how effective it will be to control stormwater runoff in the long term. We required a swale and they kept grading the area. Commissioner: Is the level of the soil higher than the abutters? Commissioner: Yes, not the trench, but adjacent to it. The trench looks freshly dug. Commissioner: It was done for us period. Commissioner: If the trench replaces the swale then the trench needs to be bigger and crushed stone added so it can collect and percolate stormwater.

933 Nantasket Ave. (SE35-1494) Commissioner: This is at the end of Nantasket Ave on the lagoon. Krahforst; the As-Built Plan shows 2 new concrete retaining walls that weren't part of the original Plan of Record. The As-Built show other modifications. Are these modifications significant? Do they affect the interest of the Act? The owner said that where the garage is different. The 2nd wall was added to accommodate the stairs from the previous garage. The porches are different but the increase is about 10 square feet. The demo of the garage resulted in a need to change the plan. They should have reached out to the Commission about these changes. Another Commissioner: When they took the garage out it seems they had to reinforce the bank. The shed thing is now made to be part of the house. They probably should have come back (to the Commission) but the As-Built shows what is there now. Another Commissioner: When they pulled the garage out they realized that there were railroad ties used as a retaining wall that was already there. The driveway material is in question. Commissioner: What is that black line (on the plan)? Krahforst: I don't know. Commissioner: Were the neighbors not expecting these changes? Another Commissioner: The previous plans show the stairs. Commissioner: If you look at the original plan the garage and stairs were 13 feet from the lot line. It's now an open lot. The wall from the neighbor is about 27 ft to the house. The stone wall is about 8 feet to the neighbor. They tied into the neighbor's continuous wall. Krahforst: We noticed the use of stone dust in the gravel driveway. The Commission requests a new NOI for the non-conforming construction (walls) and to address the stone dust driveway.

Continued and New Business

722 Nantasket Ave (SE35-1489) Request for Extension of Order of Conditions

Clapper: I've had trouble finding contractors to finish up the project. Krahforst: The permit is set to expire.

Motion to issue a 1 year extension of the Order of Conditions by Sorgi, 2nd by Campbell. Roll Call: Campbell-aye Best-aye Sorgi-aye, Jacintho-aye, Paquin-aye.

Violations and Compliance issues

51 Harborview Enforcement Order- Krahforst. This is where the coastal bank is eroding away. A Deadman Earth Retaining System was permitted by the Commission in Nov. 2019. They were supposed conduct a soil engineer's report prior to construction. In addition, the patio was supposed to be moved back 10' from the top of the coastal bank. No preconstruction meeting was scheduled. Work began unknown to the Town. There was a catastrophic coastal bank failure. The abutters are becoming concerned. The special and standards conditions of the Order were not met. They

never applied for a building permit. I am seeking from the Commission to ratify this EO. Commissioner: Google map showed a different property for this address.

Motion to ratify the enforcement order for 51 Harborview by Sorgi, 2nd Campbell. Roll call: Best-Aye, Sorgi-aye, Jacintho-aye, Paquin-aye, Campbell-aye.

Motion to adjourn by Sorgi, 2nd by Campbell. Roll Call: Sorgi-aye, Jacintho-aye, Paquin-aye, Campbell-aye, Best-aye.