

Hull Conservation Commission
Meeting Minutes
Tuesday, January 11, 2022
Meeting held online, via GoToMeeting

Meeting Remote Location	Remote Call-in meeting with GoToMeeting: https://global.gotomeeting.com/join/585227493 OR: By Phone: (669) 224-3412 Access Code: 585-227-493
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Members Present: Paul Paquin, Chair, Tammy Best, Sam Campbell, Lou Sorgi, Katherine Jacintho
Members Absent: none
Staff Present: Chris Krahforst, Conservation Administrator, Renee Kiley, Conservation Clerk
Staff Absent: none
Minutes: Minutes of 12/28 Motion made by to approve the minutes as amended by Sorgi 2nd by Paquin. Roll Call Vote- Sorgi- aye, Jacintho- aye, Campbell- aye, Paquin- aye, Best- aye,

AGENDA

- 6:00 Call to order**
Review of Agenda, Meeting Procedure, and permit guidance
- 6:05 3 Mildred St. Map 01/Lot 032. Opening** of a Public Hearing on the **Request for Determination of Applicability** filed by **Mary McGloon Foley** for work described as **replace existing sonotube footings and front porch on existing footprint if necessary. Abutter Notification:** Not required, RDA. **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 (11')** (storm damage and pollution prevention, flood control). **Site visit** 01/09.
Representatives: Mary McGloon Foley
Abutters/Others:
Documents: Proposed Plan
Foley: Remove front porch and replace in existing footprint. There maybe sono tubes footings that need to be replaced. Commissioner: Is it the side deck as well? Foley: Yes.
Motion by Sorgi to issue a negative determination. 2nd by Campbell. Sorgi- aye Campbell –aye, Paquin –aye

Jacintho arrive 6:10pm

- 6:10 102 Edgewater Rd., Map 30/Lot 053. (SE35-1649) Continuation** of a Public Hearing on the **Notice of Intent** filed by **Michael & Cheryl Woolf** for work described as **demolish existing home and rebuild within same footprint. Abutter 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 visit done** near the end of December 2021.
Representatives: Michael & Cheryl Woolf, Ron Morgan
Abutters/Others:
Documents: Foundation Plan
Krahforst: There were 2 Commissioners that were unavailable at the 1st hearing (12/28) on this property. I would like to confirm that they have read the minutes and/or reviewed the recording. Commissioner Sorgi: I have. Commissioner Jacintho: I have. Commissioner to applicant: Are you using the existing foundation? Morgan: The existing foundation will be used. Flood vents will be added and the internal grade will be raised to match existing exterior grade. Commissioner: What is the proposed elevation for your 1st floor? Morgan: Would that be listed on the site plan? What is the purpose of the question about the 1st floor elevation? Commissioner: You need to be elevated appropriately above the base flood elevation (BFE=10'). Another Commissioner: Plan shows T.O.F= 11.17 BFE. Commissioner: This is 1.17 ft above the BFE. We would suggest putting it up as high as you can. Commissioner: Will the foundation be filled to the outside grade? Morgan: Yes, and all heating and electrical will be above the floodplain. Commissioner: Will the floor size be expanded beyond the existing footprint shown? Morgan: No, it will not be. Commissioner: Are there any drainage or roof runoff issues? Another Commissioner: There may be since the building is located quite close to the abutters. Morgan: There will be gutters and downspouts. However, there is a large amount of space on the right. Commissioner: You are less than 6 feet from the boundary line and putting gutters on the right side and a dry as well is probably needed and would provide added protection to your foundation. Krahforst noted for the Commission that the land slopes away from the abutter to the east. It slopes towards 7th St. & Edgewater Rd. Commissioner: Are you okay with adding downspouts emptying into dry wells? Woolf: Yes.

Motion by Sorgi to issue an Order of Conditions with the special condition that gutters and dry wells be added to capture roof runoff. 2nd by Campbell. Roll call – Jacintho- aye, Campbell- aye, Paquin- aye, Best- aye, Sorgi- aye

- 6:25 17 Pt. Allerton Ave. Map09/Lot 053. (SE35-1650) Opening** of a Public Hearing on the **Notice of Intent** filed by **Robert & Carolyn Hewitt** for work described as **expand existing driveway (26' x 8') with permeable pavers. Abutter 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-21 and AO (Depth=3')** (storm damage and pollution prevention, flood control). Within **Limit of Moderate Wave Action (LiMWA).**
 Representatives: Robert & Carolyn Hewitt
 Abutters/Others: D. McDougal, neighbor
 Documents: FEMA Flood Map Firmette, Proposed Plan
 Krahforst: The property is largely contained in the LiMWA. This LiMWA extends onto the street. It follows closely along the street layout. Hewitt: We are adding pavers to the right. Truglia will be doing the work. The Building Department said to stay outside of 3 feet from the property line. Neighbor McDougal expressed confidence that the project will be done correctly.
 Motion by Sorgi to issue Order of Conditions with the special conditions that no stone dust to be used and pavers to remain permeable in perpetuity. 2nd by Campbell. Roll Call: Campbell-aye, Paquin-aye, Best-aye, Sorgi-aye, Jacintho
- 6:33 90 Cadish Ave. Map 14/Lot 075. (SE35-1651) Opening** of a Public Hearing on the **Notice of Intent** filed by **Patrick Nugent** for work described as **demolish existing barn and build new two story garage. Abutter 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); Possible **LiMWA**, Possible **Ch. 91 Jurisdiction.**
 Representatives: Patrick Nugent, David Ray, Steve Myers
 Abutters/Others: B. Kelly, Building Commissioner
 Documents: Proposed Plan
 Krahforst: Part of the property is in the VE Zone, a LiMWA, and a possible Chapter 91 area. Most of the work is not in the c.91 area. Ray: All work is landward of c.91 jurisdiction except the walkway which would not require a c.91 license. We are knocking down a garage and rebuilding with a FEMA compliant foundation with flood vents. ZBA has approved the project. We are also proposing to install permeable pavers halfway around the garage. Commissioner: There is a foundation proposed. Ray: It will have a foundation with FEMA flood vents. Commissioner: What exists currently where the pavers are proposed? Ray: Grass and soil. Commissioner: Do you need to stay 3 feet away from the boundary line as required by the building department? Ray: You cannot park a car 3 feet from your property line. You can build a patio up to the boundary line. They are not going to park a car in that setback. However, they need to be able to turn around. Krahforst: I'm not sure, but I don't think that a driveway can extend all the way to the property line. What is being proposed is a patio. I don't know what defines a driveway vs. a patio. There is some vagueness with what can be extended to the property line. Commissioner: If it was asphalt we would have an issue. Do we have an issue with permeable pavers that close to the property line? Commissioner: I would like some clarification with the plot line. It could change the proposed project. Ray: In the event that the building department says that we can't build that close to the property boundary, we would be building less. Kelly: I can read the Zoning Section 410-5.2 Section 3 Parking Location: No off-street parking and/or loading area shall be located on the set-back areas, or nearer than three feet to buildings or structures other than parking garages, or located on side yards nearer to the side lot line than three feet. However, for all one-, two-, and three-family dwellings, parking in a driveway with an improved surface approved by the Building Commissioner shall not be considered a violation of the front set-back. (1) In a Business District, off-street parking is permitted on setback areas.(2) For one, two and three family dwellings, off-street parking shall be permitted within the set-back areas, but not closer than three feet to any interior lot lines. Such parking area shall have an improved surface that shall be approved by the Building Commissioner, with consideration given to runoff and drainage. Said permission does not exempt proposed new one, two or three family dwellings from complying with the parking requirements for new construction.
 Motion by Sorgi to issue Order of Conditions with following special condition that no stone dust be used and the pavers must remain permeable in perpetuity.
 2nd by Campbell. Roll Call: Paquin- aye, Best-aye, Sorgi- aye, Jacintho-aye, Campbell- aye
- 6:44 189 & 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. On 01/04, the applicant's representative requested a continuance to January 25.**
 Commissioner: Has this project gone to peer review as requested by the Commission? Krahforst: The applicant has asked for a continuation because this needs to go through site plan review. The applicant isn't sure that they will continue with the project. The peer-reviewer is ready to do the review. Commissioner: Is this moving forward? Krahforst: I have asked the applicant's representative. It is stalled with the applicant. Commissioner: We should give the applicant 2 more weeks to decide what they want to do.
 Motion to continue to 01/25/2022 by Sorgi; 2nd by Campbell. Best aye, Sorgi-aye, Jacintho aye Campbell aye Paquin aye

Certificate of Compliance Requests

Continued and New Business

Commissioner: We were just told by the Building Commissioner that we do not have to limit a driveway to 3 feet away from the boundary line. We can't stop people paving to the boundary line. We can only tell people that they can't park in that setback. Another Commissioner: That's not true, if there is a proposed asphalt driveway that extends to the boundary line and runoff water will spill onto the neighbor's property or is problematic with respect to resource/abutter impact we can require an appropriate buffer. Commissioner: That is a water runoff issue. We've been telling applicants that they cannot pave or add pavers to the property line because the town Building Department needs a 3 foot buffer between the driveway and the property line. We have been informing applicants that they cannot pave or use pavers up unto the boundary line for that reason. Commissioner: There is a note in the building department bylaws that there is a difference. We don't have to follow the Building Department's regulations allowing patios to extend to the property line if there is potential for a negative impact to wetland resources or abutters from runoff as a result of the project. Another Commissioner: Prior to that we have said that the Building Department said that a driveway cannot be within 3 feet of the property line. We need to only address these matters for Conservation reasons. Commissioner: The 3 foot buffer is a reasonable amount to space for infiltration of project runoff in these cases. Commissioner: We have to consider why it can't be within the 3 foot buffer of property lines. It's now an objective discussion. Krahforst: The commissioner is raising a great point. You may recall an earlier hearing where an applicant wanted to put bricks around a pool and extend this up to their property line. The Commission required a buffer for infiltration to minimize potential impacts to the neighbors. The 3 foot buffer was required to protect the abutters.

Commission's procedural review for unpermitted work

Krahforst: What does the Commission do when they come across unpermitted activities in the floodplain during site visits? Expert System Plan shown. A Commissioner who helped author this reviewed the Expert System for Commission. Another Commissioner: During site visits, we are not meant to have any discussion with regards to the application. Another Commissioner: If we are on a site visit we can't talk about anything on the NOI or RDA. If something is noticed that isn't on the application, we would be able to discuss observed or perceived violations without being in violation of the Open Meeting regulations. If it hasn't been advertised it's not under the open meeting law. Krahforst: Good point and maybe we include this topic when we engage Town Counsel at the next meeting re: the HRA parking lot issue (see below). Krahforst suggested the following thought experiment: During a Conservation Commission meeting when you are discussing the merits of the application/project and the issue of non-permitted work arises, the Commission steps back and considers if the non-permitted activity has the potential to negatively impact the resource. The commission could ask the applicant if they would be willing to add the unpermitted work to the application. Commissioner: If we are out on a site visit and see unpermitted work, we can suggest that they file an NOI or RDA for the non-permitted activity. Another Commissioner: I suggest we circulate the Expert System plan to all again and think of some ideas to further discuss again in 2 weeks. Kiley: Can you add unpermitted work to an NOI? Krahforst: Yes, however the applicant would have to again advertise and capture all unpermitted work if the project has significantly changed. Kiley: Can we ask applicants if everything on their property is on the plan? Commissioner: Yes, but many people often forget to include the unpermitted work.

Violations and Compliance issues

HRA Parking Lot, Map 33/Lot 066

Kelly (HRA Chair): This area was heavily developed before the late 60's early 1970's. Ever since that time it has been a parking area. The difference now is it is being leased to the hotel for their valet parking. At what point should the HRA have applied to have it be used as a parking area? Commissioner: Anything before the act was in place is grandfathered. Krahforst: There is nothing grandfathered under the WPA. This issue has been discussed with Town and opposing counsels on other matters where this has come up relative to the WPA. Commissioner: HRA need a permit for the parking lot. The use has changed. Before it was not a revenue generating parking lot, now it is. Kelly: What does it matter if it's a revenue parking lot? It was a parking lot before. Commissioner: It is one thing that it was vacant lot that is used for seasonal parking. There is now a timber-rail fenced parking area. There is a substantial change in use and its location is near and adjacent to the Weir River ACEC. There is a conversation to be had about permitting, operation management, and storm water management. The vegetative cover has been significantly reduced since the area has now been used for valet parking. Kelley: I have historical pictures showing the same amount of gravel. The only difference now is the fences. Commissioner: The question tonight is: Does it need a permit or not? Commissioner: Any litigation involving the Building Dept. on matters of the town would be represented by Town Counsel. Kelly: The town and the HRA are two separate entities. I am here as a Representative of the HRA not the Building Commissioner. HRA has its own attorney for representation in any litigation matters: Another Commissioner: Have we had any similar issues regarding permitting parking areas, e.g., along Atlantic Ave near Straits Pond? Has that other parking area been permitted? Commissioner: The parking area on Atlantic Ave. was never permitted. Is it still included in the Atlantic Ave project permit? Krahforst: I'm not sure. That parking area was not included in the Atlantic Ave reconstruction project that was approved by the Commission and was reflected as such in the Order of Conditions issued. Commissioner: Can we refer whether there grandfathering relative to the WPA exists

to Town Counsel? Krahforst: The HRA is a completely different entity from the Atlantic Avenue unpermitted parking. Unless it relates to grandfathering activities relative to the WPA. Commissioner: Who would represent us with regards to the Commission's decision if this matter enters into litigation? Will Town Counsel say whether the HRA needs a permit? Krahforst: The decision whether this matter needs a permit resides with the Commission. Commissioner: The issue re: HRA parking lot is whether a permit is needed or not. Commissioner: If we issue a form of violation for the unpermitted HRA parking and HRA appeals, which is what I would do, it becomes an issue for Town Counsel. Maybe, no one else thinks that they do need a permit. Commissioner: Is there a motion to require HRA to submit a NOI for the parking lot? I agree we need advice from Town Counsel. Another Commissioner: I agree there needs to be further discussion with Town Counsel in order to get our "ducks in a row" and that we are all on same page in order to move ahead. Kelly: Can I be included in this discussion? Commissioner: Absolutely. We will continue this issue in 2 weeks.

7:26 motion to Sorgi aye adjourn 2nd by Campbell Jacintho aye, Campbell, aye Paquin aye, Best aye, Sorgi aye