



HULL CONSERVATION COMMISSION

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Hull, MA 02045

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TUESDAY, May 12th, 2020
(held remotely via GoToMeeting)

Members Present: Paul Paquin, Sean Bannen, Paul Epstein, Tammy Best, Lou Sorgi
Members Absent: Jennifer Stone
Staff Present: Chris Krahforst, Conservation Administrator, Sarah Clarren, Assistant Conservation Administrator
Staff Absent: None
Minutes: Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below rollcall **vote** of 5-0;

It was **voted** to: Approve the Minutes of April 28, 2020 as amended.

P. Paquin – aye
T. Best – aye
S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye

6:00 Call to order

6:09 155 Manomet Ave., Map 19/Lot 074. Opening of a Public Hearing on the **Request for Determination of Applicability** filed by **Louis Eyster** to remove approximately 4'x25' concrete slab, remove existing 5' high fence, install new 6' high privacy fence along 6" inside of property line.

Representatives: Louis Eyster

Abutters/Others: Randy Gould (2 Cushing St)

Documents: "Plan of Proposed Construction" [annotated] – Greater Boston Surveying and Engineering – 3/30/2020

A Commissioner asked for clarification on where the proposed work is and upon further examination of the plan and clarification from L. Eyster, it was determined that the work is in the hatched area shown on the plan. L. Eyster said that the work would involve saw-cutting the concrete on his property and installing a fence approximately 6" from the property line. A Commissioner expressed concern over a fence and the redirection of stormwater; L. Eyster agreed to elevate the fence 6" to allow for flow-through.

R. Gould of 2 Cushing St. asked if the land was surveyed, to which P. Paquin said yes. R. Gould alleged that per google maps, either the applicant or the abutting property is encroaching on the railroad bed. C. Krahforst noted that part of the fence does appear to extend on the railroad bed, to which the Commission said that the applicant would have to obtain a license from the Selectmen for work not on their property. L. Eyster said that he would submit a revised plan showing work only on his property.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 5-0;

It was **voted** to:

Close the Public Hearing and **issue** a Negative Determination of Applicability.

S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye
P. Paquin – aye
T. Best – aye

6:10 187 Atlantic Ave., Map 51/Lot 007 (SE35-1466). Opening of a Public Hearing to **Amend** the **Notice of Intent** filed by **Richard Powers** for work described as **change location of proposed rear stairs, install generator platform.**

Representatives: No one present

Abutters/Others: No one spoke

Documents: "Existing Conditions Plan" [annotated] – Collins Civil Engineering – 7/13/17, received 5/11/2020

"Proposed Building Plan" – Collins Civil Engineering – 2/19/19, last rev. 6/4/19

"Street Elevation Floor Plan" [annotated] – GEV Design, Inc. – 2/9/19, received 5/11/2020

No one was present to describe the proposed project. C. Krahforst said that the proposed amendment is as described above. A Commissioner asked how elevated the generator platform would be, to which C. Krahforst said that is the Building Department's purview. A Commissioner noted that the phragmites onsite is making a comeback.

One Special Condition [in addition to the Special Conditions from the Original Order] was added as follows:

1. The area underneath the generator platform shall not be enclosed. This condition is ongoing and will not expire at the end of three years.
- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 5-0;
It was **voted** to:
 - Close** the Public Hearing and **approve** the Amended Order of Conditions.
 - L. Sorgi – aye
 - P. Epstein - aye
 - P. Paquin - aye
 - T. Best - aye
 - S. Bannen - aye

6:32 2 A St., Map 18/Lot 150 (SE35-1477). Continuation of a Public Hearing to Amend the Order of Conditions
filed by **SHM Sunset Bay Marina** for work described as **add 32 additional slips, increase floating dock area,**
and add 8 additional pilings for approved attenuators.

Representatives: Adam Brodsky (attorney); David Ray (surveyor)

Abutters/Others: Leo McDunnah (12 Cadish Ave); Susan Short Green (71 B St); Terri Petriella (27 B St); Gale Frenzen(?) (Milford St); Julia Parker (41 Highland Ave); Ken Framer (16 Milford St)

Documents: "Re: 2 A Street, Sunset Bay, Hull" [email] – DMF – 5/12/2020
"Proposed Site Conditions" – Nantasket Survey Engineering, LLC – 2/11/2020

A. Brodsky said at the last meeting, the Commission requested two additional pieces of information, including submitting copies of the amendment request to DMF and Natural Heritage, which was done. He said that they have not received formal comments regarding the submission to the Commission. He added that C. Krahforst has received informal comments from both agencies. A. Brodsky noted that when the Original NOI was submitted, they received a letter from Natural Heritage that the project would not result in a 'take' and that DMF has been heavily involved in the Ch. 91 license process, which led to the filing with the Commission. He requested on behalf of the applicants that the hearing be closed and an Order of Conditions be issued. C. Krahforst said that he did reach out to both agencies, DMF relayed that they have no additional recommendations and do not feel like they need to submit formal comments. Natural Heritage replied that the application was under review, but that unofficially, there were no species of concern that would be impacted. C. Krahforst provided an email from Kate Frew of DMF that states "...As the applicant has taken our comments into consideration and will now be using pilings instead of block anchors and chain, we have no additional recommendations at this time. Is this email OK to reflect our comments or would you prefer an official letter." The Commission had no additional comments, so the hearing was opened to the public.

L. McDunnah said that he's been in touch with Army Corps of Engineers and has questions regarding permitting of the site. He said he wasn't sure if the Commission is the right forum. He said that he's had a discussion with Kurt Bornheim, the Town's Harbormaster, regarding the non-buoyed fairway in regard to the extension of the wave attenuators to the north and then separately, the slips that went in two winters ago. He said he saw a barge driving piles for transient slips. He said that he has this recent dialogue with the ACOE and wants the hearing continued until he can get an answer from the ACOE. A Commissioner said that they don't believe either concern is a Commission issue and may fall more under the purview of the Harbormaster. C. Krahforst added that ACOE would weigh in on a Commission decision or hearing if a water quality certification is needed. This project would not do any dredging which would not bring in the ACOE. He added that although there may be dialogue, it may not be relevant to this hearing. L. McDunnah then asked who issued the permit for the wave attenuators, to which the Commission said that they permitted the wave attenuators, under the jurisdiction of the WPA, in the original Order. C. Krahforst said that in regard to wave attenuators, the hearing before the Commission tonight is regarding the request is to amend the Order; specifically how the wave attenuators are anchored, which was brought on through the Ch. 91 licensing process. L. McDunnah asked if a federal permit is needed, to which A. Brodsky said that they have separate state and federal permitting processes going on; there are pending applications in front of the ACOE and DEP (Ch. 91), which are separate from the permit request before the Commission. A. Brodsky further clarified that the Commission issued a permit under the WPA last year for the wave attenuators. Other permits through other agencies are still needed. A Commissioner noted that each agency issues permits under their jurisdiction. A Commissioner said that it may need to be reviewed by the Harbormaster.

S. Green of 71 B St asked for clarification on the hearing. She said that she was present in June of 2019 when the Commission was informed that work was being done and now the Commission is talking about permitting something that wasn't permitted. A. Brodsky said that the purpose of the amendment is to change the anchoring of the wave attenuators. He added that despite the fact that structures have been in the water for years, when the marina was reconstructed in the past, some of the floats were made wider and additional fingers have been added so that the square footage of what's in the water is different (by about 8,000sq. ft) from what was shown on the original approvals. He said that a large portion of the 8,000 sq. ft. is because the gas dock was supposed to be removed and replaced, which was not done; this adds additional sq. footage. He said that there are no changes to the number of slips that have been in the water; when DEP permitted the project (149 slips), they didn't count boats that would be tied up against floats. The proposal before the Commission is for 181 slips. A. Brodsky said they are conforming the permits to what is on the water. S. Green said that it

appears that work was done without a permit and questioned if the marina has been fined for the unpermitted work, to which the Commission said no. S. Green said in 2019 it was brought up that work was being done and therefore it was not investigated. C. Krahforst said that in his time as Conservation Administrator, he does not recall any work that involved installing finger piers or anything that is being proposed under the request before the Commission. He clarified by stating that he does not recall being informed that the marina was adding slips to the dock. He said that there have been other instances where the Town has interacted with the previous owner, such as an oil spill. T. Petriella from 27 B St said that she was the person who raised the inquiry of suspicious work going on at the marina in 2019. T. Petriella said that she does not like that they are requesting a permit after-the-fact. She said that she's upset about the parking and that additional slips may have led to there being an issue with parking. The Commission noted that parking concerns should be directed to the Planning Board.

Gale Franzen(?) of Milford St. asked what the purpose of the wave attenuators are and if people can use them to dock and/or have bands on them. D. Ray said that docking alongside them is useless; the purpose is to attenuate wave energy. G. Franzen(?) said that she saw a band on one last year and said that she was upset when people work outside the scope of what is permitted. She relayed that she's asked the Selectmen how it's possible to ensure people follow plans. A Commissioner said that the number of slips and width is not really a Commission issue. C. Krahforst said that when a permit is issued by the Commission it needs to be closed out with a Certificate of Compliance and any issues under the purview of the WPA would then need to be dealt with. A Commissioner said that their purview is the WPA; they are concerned about the resource areas.

J. Parker of 41 Highland Ave. relayed that there is a Design Review Board (DRB) meeting at 7:45PM today. She added that the DRB's role is advisory and that they will be reviewing parking, signage, lighting, etc. and submitting recommendations to Planning Board. Ken Frammer of 16 Milford St. asked for the GoTo Meeting information on how to access the DRB meeting, to which J. Parker provided. K. Frammer said that the new owner just wants to clear up the plan and added that it's not unusual for new slips to be added to a marina. He said that he knows cases where DEP required unpermitted slips removed. He then alleged that parking is based on the number of slips, to which a Commissioner said parking is not a Commission issue. S. Green asked if DMF and Natural Heritage informal comments will be used, to which the Commission said that is possible.

A Commissioner said that the wave attenuator hearing in 2019 had nothing to do with slips and that the amendment request bundles the change of wave attenuator anchoring and correcting the number of slips into one. A Commissioner asked when the extra slips were added to which A. Brodsky said that there have not been slips added for years. L. McDunnah said that he doesn't agree with Brodsky and alleged that he has photos from winter of 2018 when transient slips were being added. A. Brodsky said that he has no personal knowledge of that and that the discussion goes above and beyond the WPA. He added that further compliance will be resolved with Ch. 91 and parking issues will be discussed with the Planning Board. A. Brodsky added that there is no reason to continue this hearing as the project complies with the WPA. S. Green said that L. McDunnah's issue was brought up by T Petriella in June meeting, to which the Commission said that sufficient evidence was never provided. Another Commissioner said that the question at hand when it comes to something that hasn't been permitted is, does the work violate the WPA and harm a resource area. The Commission concluded that they don't believe the resource areas will be harmed as a result of the request

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 5-0;

It was **voted** to:

Close the Public Hearing and **approve** the Order of Conditions.

P. Epstein – aye

L. Sorgi – aye

S. Bannen – aye

T. Best – aye

P. Paquin – aye

7:18 125 Main St., Map 02/Lots 005 & 003 (SE35-1523). Continuation of a Public Hearing on the Notice of Intent filed by Stephanie Aprea for work described as construct foundation and install boat house on new foundation.

Representatives: No one spoke

Abutters/Others: Randy Gould (2 Cushing St)

Documents: None.

C. Krahforst said that applicant requested a continuance for 2 weeks. He noted that the project before the Commission has partially stalled because the Commission requested a peer review. A peer review submittal has been provided to applicant and their representatives, but they have not yet agreed for the Conservation Department to contract with the firm.

A Commissioner said that they have been asked to speak on behalf of residents about if the project is harming resources. C. Krahforst reminded the Commission that there are two Enforcement Orders (EO) against the property on that issue, but the EO is separate from the Notice of Intent.

Another Commissioner noted that they would only be in favor of one more continuance request and said that the applicant should either agree with the peer review or the Commission should vote based on the information that they have.

R. Gould asked how many continuances can be granted, to which Commissioner said continuances are granted in good faith on if the applicants are making progress on the filing. R. Gould asked if there were any other EOs, to which Krahforst said there is a second EO issued for work on beach/town property. R. Gould said that floats have been brought up on the beach and the area looks like a junkyard. C. Krahforst said that fines are being issued for the EOs (again, separate from the NOI). If there remains noncompliance, the EOs could end up in court. R. Gould alleged that more equipment has been brought to the site.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 5-0;
It was **voted** to:
Continue the Public Hearing to 5/26/2020 at a time to be determined. The applicant shall determine if a peer review will be conducted and if not, the Commission will vote on the information they have.
P. Paquin – aye
T. Best – aye
S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye

P. Epstein recused himself

7:30 24 Warren St., Map 23/Lot 130. Opening of a Public Hearing on the Request for Determination of Applicability filed by **Paul Epstein** to **install a 16' x 8.4' shed where a previous garage was located.**

Representatives: Paul Epstein

Abutters/Others: No one spoke

Documents: "Plot Plan" [annotated] – n.d.

P. Epstein introduced the project as described above, but added that the proposed location is different from the one on the plan. He stated that he would provide a revised plan the next day.

- Upon a **motion** by P. Paquin **2nd** by L. Sorgi and the below roll call **vote** of 4-0;
It was **voted** to:
Close the Public Hearing and **issue** a Negative Determination of Applicability.
P. Paquin – aye
T. Best – aye
S. Bannen – aye
L. Sorgi – aye

P. Epstein returned

7:34 21 E St., Map 16/Lot 087 (SE35-1536). Continuation of a Public Hearing of the Notice of Intent filed by **Lawrence Trubia** for work described as **construct rear addition (10'x16'), rear deck, and outdoor shower.**

Representatives: Lawrence Trubia and Lisa Dahill

Abutters/Others: No one spoke

Documents: "Proposed Addition" [Sheets A1-A4] – PLombardo – 4/20 & 2/20

C. Krahforst relayed that the only reason why the hearing was continued from the last meeting was that no DEP file number had been issued. S. Clarren added that the Commission had discussed one special condition regarding the shower.

One Special Condition was added as follows:

- 1) The outside shower drain shall be connected to the house's wastewater drainage system.
- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 5-0;
It was **voted** to:
Close the Public Hearing and **approve** the Order of Conditions.
T. Best – aye
S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye
P. Paquin – aye

Certificate of Compliance Requests

4 Atlantic Ave. (SE35-1371); A Commissioner noted that there was more work done on site than what was permitted. Such work includes a patio, generator platform, and stepping stones that could be mobilized in storm events. The Commission determined that the property owner should request an amendment for the unpermitted work. A Commissioner asked if the property received permission for the stones and plantings on town property, to which C.

Krahforst said they have town approval to extend wall, but nothing additional. C. Krahforst noted that the stairs over the wall were pre-existing.

Continued and New Business

Joint meeting with BOS on beach access plan funded by CZM Coastal Resiliency: Krahforst said that a major project is wrapping up that involves working on closing unpermitted paths and a new beach access point at A St. The project will involve charrettes for the public and then a finalized Notice of Intent will be filed with the Commission. C. Krahforst added that the preliminary meeting should be a joint meeting between the Selectmen and Commission, which will be in the next few weeks.

Approval of sand source for Beach Ave dune restoration (SE35-1485): C. Krahforst relayed that Town Council wants the Commission to formally vote on the sand source (PA Landers) which was presented to the Commission at an earlier meeting. Multiple members thought they had already unanimously approved the sand source, to which C. Krahforst said they had not. – P. Epstein **Motion**, L. Sorgi **2nd** and the following roll call **vote** S. Bannen – aye, T. Best –aye, P. Paquin – aye, P. Epstein – aye, L. Sorgi – aye; to formally approve the PA Landers sand in the dune reconstruction under SE35-1485.

Existing fence repair in the floodplain: C. Krahforst raised a hypothetical inquiry regarding an old fence; if an old, unpermitted fence is damaged, can it be repaired? A Commissioner noted that if it's pre-1978, it could be reinstalled, but if it was constructed post-1978 it should've been permitted. A Commissioner suggested that they should follow IBC guidelines, which essentially entails any repairs should come up to code. C. Krahforst than introduced guidance on fences in floodplains that he is developing based on what the Commission has permitted in the recent past. The Commission agreed that the guidance would be helpful for the public but suggested postponing further discussion until the next meeting.

410 Nantasket Ave "pea stone": C. Krahforst relayed that the property owner placed crushed stone instead of the permitted pea stone on site. The Commission determined that such a deviation is minor and may actually be better for the resource area.

Abutter notification for RDAs?, Conservation Bylaw: The Commission discussed a suggestion by a Commissioner to require abutter notifications for RDAs; such a requirement would require a bylaw, which the Conservation Department hopes to develop in the next year. C. Krahforst noted that Hull is one of two coastal communities in MA that does not have a wetlands bylaw. S. Clarren questioned the use of RDAs as work in a resource area involves digging, filling, or altering said resource and as she reads the WPA, would therefore require a NOI. A NOI requires abutter notification.

8:30 Upon a **motion** by P. Paquin and **2nd** by L. Sorgi and the below roll call **vote** of 5-0;

It was **voted** to: Adjourn.

S. Bannen – aye
T. Best – aye
L. Sorgi – aye
P. Epstein – aye
P. Paquin – aye