



HULL CONSERVATION COMMISSION

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TUESDAY, April 14, 2020
(held remotely via GoToMeeting)

Members Present: Paul Paquin, Paul Epstein, Tammy Best, Lou Sorgi, Sean Bannen, Jennifer Stone
Members Absent: None
Staff Present: Chris Krahforst, Conservation Administrator, Sarah Clarren, Conservation Assistant
Staff Absent: None

7:30 Call to order

P. Paquin, Chair, read aloud the charges of the Commission and how the virtual public meeting will be held.

7:36 410 Nantasket Ave., Map 27/Lot 085 (SE35-1530) Opening of a Public Hearing on the **Notice of Intent** filed by **Khodor Kahlil** for work described as **install gravel fill over existing parking lot**.

Representatives: Fatima and Khodor Kahlil

Abutters/Others: No one spoke

Documents: "Existing and Proposed Conditions Plan [annotated]" Nantasket Survey Engineering, LLC – 11/8/2019

The Commission asked what type of fill is proposed, to which F. Kahlil said it would be small stones. A Commissioner noted that much of the property is paved and asked if gravel will be installed over the paved portion, to which F. Kahlil said no. K. Kahlil said in the areas marked on the plan, 2" of gravel would be placed as the area needs to be cleaned up.

K. Kahlil said that they want to cover it with 2" of pea stone. L. Sorgi noted that the fence that was previously approved 6" was required from the bottom and that is not the case. F. and K. Kahlil said that there is 6" of clearance. F. Kahlil said that when the work was done, there was clearance, so it may have changed after the storm. The Commission expressed concern that there needs to be 6" of clearance in perpetuity as water cannot be redirected. K. Kahlil said that he would do the work himself and a bobcat would be used. The Commission said that the gravel cannot be placed over all the trash/debris that is currently onsite, to which the Kahlils agreed.

The Commission asked if there was anyone from the public who wished to comment, but no one spoke.

Three Special Conditions were added as follows:

- 1) Prior to placement of pea stone fill, the area shall be cleaned of debris.
 - 2) Prior to placement of pea stone fill, the Conservation Administrator must confirm that there is 6" of flow-through underneath the previously permitted fence.
 - 3) The pea stone fill shall not block the flow of potential flood waters under the fence. 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 6-0;
It was **voted** to:

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

Paquin - aye

Sorgi - aye

Stone - aye

Best - aye

Bannen - aye

7:50 118 Cadish Ave., Map 14/Lot 121 (SE35-1532) Opening of a Public Hearing on the **Notice of Intent** filed by **Virginia Walsh** for work described as **proposed new location for the existing home**.

Representatives: Ginger Walsh; David Ray (Surveyor)

Abutters/Others: No one spoke

Documents: "Existing and Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – 12/9/2019

"Existing Foundation Plans" – Paul Bonarrigo, P.E. – 12/8/2019

D. Ray introduced the proposed project. He stated that there is a pre-existing home onsite which they propose to relocate 10' away from the ocean, shifted slightly towards O Street, and installed on a FEMA compliant foundation. He stated that the project has already received ZBA approval. He added that the structure along the front of the property will be removed and replaced with a minor revetment of small stones which will match slope of the surrounding site. There will be a small gap for a walkway. After that is installed, the area will be planted with *Rosa rugosa* and bayberry.

Commission expressed concern over installing a revetment and the adverse effects it will have. D. Ray said it's not exactly a revetment; the stones that are proposed to be placed onsite will match the grades that are onsite. A

Commissioner asked if the revetment will block or redirect water, to which D. Ray said no. A Commissioner expressed concern over the installation of a hard solution, to which D. Ray said it isn't a wall; the project would fill in the void of the pre-existing wall which would ultimately be flush with the ground and over time, natural sediment would build onsite. C. Krahforst noted the side view of the "revetment." D. Ray said it's more of an armored toe than a revetment.

The Commission asked if there was anyone from the public who wished to comment, but no one spoke.

One Special Condition was added as follows:

- 1) Armoring material of the "toe" (shown as "armored tow with vegetative plantings" on above referenced plan) shall be flush with existing grade.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 6-0;

It was **voted** to:

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

Paquin - aye

Sorgi - aye

Stone - aye

Best - aye

Bannen - aye

8:09 15 Marginal Rd., Map 35/Lot 013 (SE35-1533) Opening of a Public Hearing on the **Notice of Intent** filed by **Vincent Dolan** for work described as **proposed home built in place of existing home**.

Representatives: David Ray (surveyor)

Abutters/Others:

Documents: "Existing and Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – 8/26/19, last rev. 11/15/19

D. Ray presented the proposed project. He stated that the site contains a pre-existing home which has flooded on multiple occasions. The owners had hoped to rehab the home, but decided to demolish and rebuild the home. He said that the home will only contain one floor of living space. When the home is built, it will be elevated on pilings with two parking spaces underneath. There will be a rear porch which will be cantilevered. He added that the home will be centered on the lot, so it is no longer over the property line. C. Krahforst stated that elevating in this area is very good as the area often floods. He asked about the marsh system and if it comes up to the pre-existing house, to which D. Ray said it comes up to the back to the existing house. L. Sorgi asked if heavy machinery would be on the beach, to which D. Ray said no. He said that the piles would be driven from the street side or from the abutting town property. A Commissioner asked if there was a coastal bank onsite, to which D. Ray said no. A Commissioner asked what the parking spaces would consist of, to which D. Ray said that they will be permeable gravel. Another Commissioner said that during their site visit, there appeared to be a wrack line in the street and expressed concern over parking in tidelands and in areas that consistently flood. D. Ray said that the area doesn't flood in a normal tide event, but does in 25, 50 and 100 year storm events. C. Krahforst noted that when he has spoken to people who live in the area, they mentioned that they have lost cars due to flooding events. D. Ray said that the area is not tidelands. A Commissioner said that the project could be conditioned so that any cars need to be moved during storm events, to which D. Ray said that condition would be acceptable.

D. Ray said the homeowners are aware of flooding issues and will move their cars, to which a Commissioner noted that the property will eventually be sold and the new owners may not be so willing. D. Ray said that there are two pre-existing parking spaces onsite that are at a lower elevation than where they are now proposed. A Commissioner noted that there is a pre-existing home with parking and questioned if the Commission could take away parking, to which a Commissioner suggested that parking onsite was never permitted and that the proposed project would allow parking in a location that is often flooded. Another Commissioner said that the house was constructed prior to 1978 and therefore didn't require a permit. A Commissioner alleged that there have been previous Wetlands issues with the site. C. Krahforst reviewed the files in the office and said that he could only find one violation for when the property owners used asphalt to pave their driveway without a permit. A Commissioner asked if they could approve the house without the parking and come back to amend if desired, to which others agreed. D. Ray said that it is a zoning requirement in Hull to have two parking spaces. A Commissioner suggested that the homeowners just park in front of the house, to which D. Ray said they likely would, but he needs to show them on the plan to comply with zoning.

S. Clarren asked if there was a plan that shows the wetlands onsite, to which C. Krahforst said there is a line showing the location of sea grass and that it will extend past the proposed pile locations. He said that the applicant did not submit a wetlands delineation, but Woods Hole Group has done one for the area, which he has access to. The Commission said that the wetland needs to be protected during and after the project. C. Krahforst noted that it should be protected to grow and migrate, to which D. Ray noted that the proposed house is on piles and is further inland than the pre-existing home.

The Commission discussed the following special conditions:

- 1) Cars shall be removed during a moderate coastal storm or above and/or during a moon/storm tide event
- 2) Requiring the submittal of photographs documenting the vegetation onsite. The salt marsh onsite shall be protected in perpetuity.

3) All work done from the landside of the site.

A Commissioner stated that they will vote against the project as they cannot approve someone parking in tidelands.

R. Gould of 2 Cushing St. said that there are worse areas in town with regards to flooding.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 3-3;

It was **voted** to:

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

Paquin – nay

Best – aye

Stone – nay

Bannen – nay

Sorgi – aye

Epstein - aye

The motion to approve the project was defeated. The project was denied.

D. Ray said that the owners will likely not park onsite and that the vote would be considered a taking.

J. Stone stepped off the call.

8:40 200 N Truro St. Map 47/Lot 039 (SE35-1531) Opening of a Public Hearing on the **Notice of Intent** filed by **Michael Weydt** for work described as **add a 24x30 ft. single-level addition and 10x24 ft. deck onto existing house, and repair existing cement block wall.**

Representatives: Michael Weydt

Abutters/Others: No one spoke

Documents: "Site Plan [annotated]" – Ross Engineering Co., Inc. – 3/10/2020

C. Krahforst said that most of the work is outside of the Commission's jurisdiction, but a small portion is *just* within the 200' riverfront buffer. M. Weydt said that the proposed addition would be a full foundation.

The Commission noted that most of the wall looks like it's in poor condition and asked if they are proposing to replace the entire wall, to which M. Weydt said that a good 30' needs to be replaced and a mason will review and repair portions of the wall. M. Weydt said that it would be repaired and replaced with the same materials as the pre-existing wall.

A Commissioner noted that a portion of the wall appears to be on the coastal bank.

The Commission asked if there was anyone from the public who wished to comment, but no one spoke.

Two Special Conditions were added as follows:

- 1) Wall that is to be repaired or replaced, in part, shall be done so with same material.
 - 2) Wall shall be photo-documented by the Conservation Administrator, or designee, to ensure dimensions (height-width, footings) and material remain as prior to repairs.
- 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.

Epstein - aye

Sorgi - aye

Bannen - aye

Best - aye

Paquin - aye

S. Bannen recused himself

8:52 36 Nantasket Ave., Map 49/Lot 034. Continuation of a Public Hearing on the **Request for Determination of Applicability** filed by **Paul Gratta** to **determine whether this area is subject to jurisdiction of the Wetlands Protection Act.**

Representatives: J. McLaughlin (BETA Group); Caitlyn Nover (BETA Group) Marty Nover (BETA Group); Paul Gratta

Abutters/Others: Tom Bell (SPWA); Vincent Dunn (SPWA)

Documents: "Wetlands Plan [annotated]" – Nantasket Survey Engineering, LLC – 3/20/2020

"Re: 36 Nantasket Ave., Map 49/Lot 034. Request for Determination of Applicability [letter]" – Straits Pond

Watershed Association – 4/14/2020

"DRAFT Minutes" – Hull Conservation Commission – 2/11/2020

C. Krahforst said that at last meeting, the Commission asked for wetlands flags installed be located on a survey and a plan delineating the area in question. He said that he received a survey with the flagged wetlands on it and then had Gratta annotate the area where he is asking the Commission to determine if it falls within the wetlands jurisdiction.

The Commission asked if any correspondence was received on the project, to which C. Krahforst said yes. He then read aloud a letter submitted by the Straits Pond Watershed Association (SPWA) dated 4/14/2020, which includes maps developed by the SPWA. The Commission asked C. Krahforst if there are discrepancies between the map provided by SPWA and the survey by the applicant, to which C. Krahforst said that lines shown on the SPWA map contains data layers from the state which were developed from ortho photos taken in the early 2000s; Commissions have been advised to be wary of the lines and noted that any wetlands delineation, if approved, is only valid for three years. T. Bell of the SPWA said that at the last meeting, the Commission said that the wetlands needed to be delineated and that the person who had flagged them before was not qualified to do so. C. Nover of BETA said that she is a wetlands biologist and conducted the wetlands survey which is now shown on the survey done by Nantasket Survey Engineering, LLC. She said that under the Wetlands Protection Act (WPA), there is no requirement that someone needs to be certified to delineate wetlands in MA. She added that she is a wetlands scientist and is therefore a qualified individual. M. Nover reiterated what C. Nover said. He added that there is no wetlands scientist stamp for plans. He then said at the end of the day it doesn't matter who flagged the wetlands, the application before the Commission is requesting the Commission to determine if the highlighted area is within the jurisdiction of the WPA. J. McLaughlin of BETA said that the wetlands line is clearly 150+ from the area in question.

T. Bell of the SPWA said that a wooded swamp is a wetland resource that exists in the area and should be considered, to which the Commission disagreed; it's isolated and looks more like a basin and is therefore not subject to protection under the WPA. V. Dunn of the SPWA said that there seems to be lack of recollection that Nover was prohibited in doing a wetlands flagging at the last meeting and stated that the Commission said the wetlands should be flagged by an impartial party. He then asked the Commission to consider the information that the SPWA submitted at the last meeting, including a court judgment. The Commission said that they did not and would not consider a peer review project on the site and that a nearly 20 year old court case is not relevant. C. Krahforst said that the office received the requested information from the applicant. A Commissioner asked the Commission if they have everything they need to make a determination, to which a Commissioner said there is a plan disputing the line. J. McLaughlin of BETA said that it is their opinion that the information submitted is sufficient and that when the wetlands were flagged, C. Nover was on site with members of the Commission. He stated that the Commission did not raise issues with the flagging of the wetlands. M. Nover of BETA then said that C. Nover is a qualified wetlands scientist and provides peer review services for many municipalities. She added that in MA, there is no such thing as a licensed wetlands scientist nor stamping of a plan by a wetlands scientist. A Commissioner noted that when they visited the site, the wetlands flags looked appropriate. T. Bell of the SPWA said that the wooded swamp is within 100' of the area in question and therefore provides jurisdiction. J. McLaughlin said that it is isolated and is not protected under the WPA and added that they are requesting that the Commission close the hearing and vote on the matter. A Commissioner said that during the site visit, the "wooded swamp" did not appear to be a wetland, but more so a part of the facilities operation.

- Upon a **motion** by P. Epstein **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.

Best – aye

Paquin – aye

Epstein – aye

Sorgi – aye

J. Stone returned

9:29 125 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**.

The applicant requested a continuance to 04/28/2020 at a time TBD.

Before the Commission could continue the hearing as the applicant had requested, R. Gould asked what the status of the project is because it continues to be continued before the Commission and other Boards. He then expressed concern that the property owners are encroaching on public right of way and may not have the proper licenses. C. Krahforst stated that to date, the Commission has issued two enforcement orders on the site. The first was the placement of the structure on wetland resources without a permit and the second, among other things, was for driving heavy equipment on the beach. He relayed that there is a court order regarding the first Enforcement Order and that the applicant is pursuing a permit for the structure, but they requested a continuance of the hearing. He added that neither the applicant nor their representatives have addressed the second Enforcement Order. The Commission added that questions regarding filings with other Boards will have to be directed to those Boards.

- Upon a **motion** by P. Epstein **2nd** by S. Bannen and the below roll call **vote** of 6-0;

It was **voted** to:

Continue the Public Hearing to April 28, 2020 at a time TBD.

Sorgi – aye

Bannen – aye

Epstein – aye

Paquin – aye

Best – aye

Stone – aye

9:36 2 A St., Map 18/Lot 150. (SE35-1477). Opening 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.**

Proper notification was not done. The opening of this hearing was moved to 4/28.

Certificate of Compliance Requests

96 Salisbury St (SE35-1369) – P. Epstein **Motion**, L. Sorgi **2nd**, and the following roll call **vote** of **6-0**; Issue CoC.

Epstein - aye, Sorgi – aye, Epstein – aye, Best - aye, Stone - aye, Paquin - aye, Bannen – aye.

333 Beach Ave (SE35-1354) – needs as-built and possibly an amendment

1083 Nantasket Ave (SE35-1271) – The Commission said that an as-built should be required for the filing. No action.

68 Clifton Ave (SE35-1361) – The Commission noted that there were deviations from the approved plan that needed approval from the Commission. They said that the applicant needs to request to amend their Order.

323 Beach Ave (SE35-1206) – P. Epstein **Motion**, L. Sorgi **2nd**, and the following roll call **vote** of **6-0**; Issue CoC. Bannen – aye, Sorgi – aye, Best – aye, Stone – aye, Paquin – aye, Epstein – aye.

Continued and New Business

Site visits: The Commission determined that site visits should still be conducted, but should be done alone.

Remote public meeting start time: The Commission determined that because the majority of people are working remotely and that meetings are virtual, they could meet earlier. They decided to open virtual public meetings at 6pm. C. Krahforst was asked to relay this to applicants and if an applicant needs a later hearing time, that should be arranged.

Violations and Compliance issues

67 Newport Rd. – C. Krahforst relayed that the owner did have a permit for the work, but the work was done after the permit had expired. The Commission said that applicants should comply with permit timeframes and if extensions are needed, applicants are responsible for submitting a permit extension request.

(new) 125 Main St. It was noted that there was heavy machinery onsite earlier in the day. Commissioners expressed concern over the lack of compliance with enforcement orders. C. Krahforst relayed that he will follow up.

10:10 Upon a **motion** by P. Epstein and **2nd** by T. Best and the below roll call **vote** of 6-0;

It was **voted** to: Adjourn.

Epstein – aye

Paquin – aye

Best – aye

Stone – aye

Bannen – aye

Sorgi – aye