



## HULL CONSERVATION COMMISSION

253 Atlantic Avenue, 2<sup>nd</sup> floor

Hull, MA 02045

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**TUESDAY, December 17, 2019**

**Members Present:** Paul Paquin, Chair, Paul Epstein, Tammy Best, Lou Sorgi, Jennifer Stone  
**Members Absent:** Sean Bannen  
**Staff Present:** Chris Krahforst, Conservation Administrator; Sarah Clarren, Assistant Conservation Administrator  
**Minutes:** Upon a **motion** by P. Epstein **2nd** by L. Sorgi and a **vote** of 5-0;  
It was **voted** to: Approve the Minutes of December 3, 2019 as amended.

**7:30** Call to order

P. Paquin read aloud the charges of the Conservation Commission.

**7:30** Call to order  
Minutes

**7:35 3 Hampton Cir., Map 36/Lot 029 Opening** of a Public Hearing on the **Request for Determination of Applicability** filed by **Derick Ohman** for work described as **remove gravel driveway and replace and expand driveway with asphalt.**

Representatives: none present

Abutters/Others: no one spoke

Documents: "Existing and Proposed Conditions Plan" (annotated) – Nantasket Survey Engineering, LLC – 9/6/2019

As no one was present for the hearing, C. Krahforst presented the proposed project as presented in the application. He noted that a portion of the property falls within the ACEC boundary and therefore the Commission can and has been more thorough in the permitting process. S. Clarren noted a special condition issued in 1993 on an abutting property states that no more than 50% impervious surface can be on the lot. The Commission noted that there are no specific guidelines for an ACEC. The Commission expressed concern that there are no dimensions shown on the proposed plan and that the proposed parking area is right against the property line and may require a buffer. As no one was present to address the Commission's concerns, the Commission determined it was best practice to continue the hearing.

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

It was **voted** to:

**Continue** the Public Hearing to January 14, 2020 at a time TBD.

**7:49 36 Nantasket Ave., Map 49/Lot 034. Opening** of a Public Hearing on the **Request for Determination of Applicability** filed by **Paul Gratta** to **determine if whether this area is subject to jurisdiction of the Wetlands Protection Act.**

Representatives: Paul Gratta (owner);

Abutters/Others: Caitlin Nover (BETA Group)

Documents: "Figure 3 Environmental Resources Map" – BETA Group, Inc. – n.d.

"Memorandum – Wetland Resource Area Evaluation – BETA Group, Inc. – 7/23/2019

"Comment Response" – BETA Group, Inc. – 7/24/2019

At the hearing, the applicant provided proof of mailing to DEP and an updated delineation sketch as the wetlands were reflagged. C. Nover began by stating that it is an atypical RDA. She noted that the facility at 36 Nantasket received determination of need from DEP back in 2005, but since then, DEP no longer issues such permits. Currently, they are working on re-instating the permit and as part of that process, DEP requested an RDA be submitted to the Hull Conservation Commission. She noted that the Isolated depression is isolated and the land by the retaining wall is outside of the Commission's jurisdiction, as when measured in field, the BVW is 175' from the retaining wall.

The Commission asked if a site plan was submitted with the application and Krahforst also expressed concern that the plan that was submitted was not clear. He noted that the Narrative helped provide some clarity, but the plan should be consistent with the narrative. C. Nover said that a survey is cost-prohibitive for the project, to which C. Krahforst suggested a similar map/delineation to what submitted only it should show the entire site, all wetland resources, and should highlight the area that the applicant wants the Commission to make a determination on.

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

It was **voted** to:

**Continue** the Public Hearing to January 14, 2020 at a time TBD.

**8:07 80 Atlantic Ave., Map 55/Lot 045. (SE35-1511) Continuation** of a Public Hearing on the **Notice of Intent** filed by **Ellen Morrissey and Joan McAuliffe TRS** for work described as **after-the-fact installation of fence**.

Representatives: none present  
Abutters/Others: none present

C. Krahforst stated that he spoke with the applicants who had relayed that they are working with Morse Engineering to get someone to survey the property. The Commission expressed concern over the time it is taking to get a survey.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and a **vote** of 5-0;  
It was **voted** to:

**Continue** the Public Hearing to January 14, 2020 at a time TBD.

**8:10 48 George Washington Blvd., Map 37/Lot 007 (SE35-1524) Opening** of a Public Hearing on the **Notice of Intent** filed by **Steamboat Wharf Marina, Inc.** for work described as **reconfigure existing marina building and side yard to accommodate seasonal restaurant**.

Representatives: Justin Gould; Andy Spinale

Abutters/Others: No one spoke

Documents: "Red Sky at Steamboat Wharf Marina (10 pages) – 11/27/19

*Sorgi recused himself*

J. Gould said the project involves building a seasonal restaurant. He said that the project received Board of Selectmen approval and they are now pursuing approval from the other Boards. Currently, much of the outdoor space has been used as a work pad and is paved. They are hoping to convert this area into an outdoor patio. A transparent fence is proposed, as is the extension of the concrete apron and removal of pavement and replacing with compact gravel/stone dust. In order to contain the stone dust, a small retaining wall is also proposed. J. Gould said that the proposal would result in more permeable surfaces than the existing conditions.

The Commission questioned why stonedust is proposed, to which the representatives said that Boothroyd requested it, as it is used at Island Creek Oysters (in Duxbury). J. Gould said that they are not proposing to change the grade of the area and the retaining wall will catch any stone dust that moves. The Commission asked what the square footage of proposed work is, to which J. Gould said approximately 2,000 square feet. The Commission questioned if it could be graded to tilt away from the water as it is an ACEC, to which J. Gould said they would rather not change the grade and that a filter strip of stone is proposed. The Commission asked if the filter/buffer strip could be vegetated to which J. Gould said that they could, but the area floods and expressed concern that vegetation wouldn't survive. The plan was annotated to show an on average 3' wide vegetated strip which would remain in perpetuity. The strip shall be no smaller than 2'. Additionally, a siltation cloth shall be installed against the granite block on the ACEC side of the property. S. Clarren noted that the project is before the Planning Board and the plan may change. She asked the representatives if they would like to keep the hearing open in case the plan changes, to which the representatives agreed.

- Upon a **motion** by P. Epstein **2nd** by T. Best and a **vote** of 5-0;  
It was **voted** to:

**Continue** the Public Hearing to January 14, 2020 at a time TBD.

*Sorgi returned*

**8:40 16 P St., Map 14/Lot 134 (SE35-1525) Opening** of a Public Hearing on the **Notice of Intent** filed by **OAK Development and Design LLC** for work described as **Demolition of existing home and construct new single-family residence**.

Representatives: One person present, did not sign in

Abutters/Others: No one spoke

Documents: "Plan of Land 16 P St" (annotated) – Hoyt Land Surveying – 10/21/2019

"Foundation Plan, Details & Notes" – ASAP Engineering & Design Co., Inc/OAK Development and Design, LLC – 11/12/2019

The representative introduced the proposed project which involves tearing down an existing dwelling and constructing a new single family home. He mentioned that they are working on a Letter of Map Revision (LOMR) with FEMA. He stated that the proposed home would be slightly larger than the existing conditions and the driveway will remain in the same location, but would be removed and replaced with seashells. The representative noted that the foundation will be a crawl space with floodvents. The Commission said that a slab may not be needed. Krahforst noted that the property is currently designated as an AE 10 and therefore the plan must comply with the designated flood zone, even if they have submitted a LOMAR that is pending. The representative said that the LOMR is to show that the first floor is outside of the flood zone. C. Krahforst suggested elevating the home above the proposed 1' freeboard, to which The representative said he would elevate 2' above BFE. The Commission asked if fill is proposed or there are any grade changes, to which The representative said no. The representative added that the shed would be removed and the plan was annotated to show that both sheds are to be removed. S. Clarren asked what would happen to the trees onsite, to which The representative

said that he has no intent to remove the large tree near the driveway, but it may be trimmed. It was noted that if it is a Shade Tree he would need to request a public hearing with the Tree Warden. He said that the smaller tree would be removed.

One Special Condition was added as follows:

- 1) Any trees removed as a result of this project shall be replaced in-kind on the lot with native species.

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

It was **voted** to:

**Close** the Public Hearing and **approve** the Order of Conditions. The Order of Conditions was **signed**.

**9:00 125 Main St., Map 02/Lots 005 & 003. (SE35-1523) Opening** 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: Steph Aprea; Anthony Panaebianco (Attorney); Humphries (); David Ray (surveyor)

Abutters/Others: Jeff Reed; Randy Gould

Documents: "Existing Conditions Plan" – Nantasket Survey Engineering, LLC – Last rev. 12/4/19

"Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – Last rev. 11/18/19

"Memo" – Chris Krahforst – 12/17/2019

D. Ray presented the proposed project. He stated that his client had an opportunity to acquire an old coast guard building. He had it stored elsewhere but had to have it removed by a certain time period and so he brought it to Hull. D. Ray said that at the time he didn't know how many rules he was breaking, but is now working on that. The building has been brought to Hull from Chatham. The intent is to restore the building once they put on FEMA compliant foundation. D. Ray said he sited the building so it is outside of the Velocity Zone and the Limit of Moderate Wave Action (LiMWA) line and is in an AE 10 zone. The building will be installed on a FEMA compliant foundation with numerous flood vents. He said that the building is basically just a boathouse that will have boathouse doors facing Main Street. He said that the idea is that they will bring boats inside that they want to work on. D. Ray said that S. Humphries was hired to delineate the wetlands onsite. D. Ray said that a stormwater design system was designed to collect all roof runoff and infiltrate it into the ground. A Commissioner asked what the purpose of the building is, to which D. Ray said a boathouse. The Commissioner further questioned how boats would be brought in, to which D. Ray said that there would be an open ramp grid for boat access. He noted that there is currently a door in the rear of the boathouse which may eventually be moved to face Nautical Joes. D. Ray mentioned that the boathouse may eventually be used as storage for the building next door.

A Commissioner questioned if the building could be allowed within the resource areas. Another Commissioner noticed differences, particularly with the coastal dune and beach delineations, between the Woods Hole Group and Humphries' delineation. C. Krahforst then noted that there appear to be unpermitted activities onsite and that the NOI may want to address those. Such unpermitted activities include 1) vehicle operations on the beach which appear to have had some effect on beach alteration, 2) Storage of boats in a resource area, and 3) Unsecured storage of containers on beach and other resource areas. He also expressed concern about the difference in delineations, as the applicant's delineation shows a gap between the coastal beach and adjacent dune, but per the Wetlands Protection Act, there is no gap allowed by definition between these said resource areas and therefore the plan is inconstant with regulations. He then added that he provided print outs of pictures from Google Earth of the property and the changes that occurred to the area since 1995; ultimately the coastal dune may have been severely altered. He added that if the proposed location where the boathouse will be situated is on a coastal dune, the proposed foundation plan is inappropriate per FEMA guidelines. Krahforst then noted that with most NOI's other than single-family homes, the application includes a narrative which describes the project and its intended use; this application lacks a detailed narrative other than the brief one in the Stormwater Report. He then stated that he briefly reviewed the Stormwater Report and noticed that the checklist wasn't included in the submittal, but from his review, it may meet the stormwater calculations for the roof as best as he can tell, but it does not necessarily speak to the use of the building.

A Commissioner said that there have been operations for marine operations on site for decades and asked if it was permitted for such, to which D. Ray said that there is a Ch. 91 license for the pier for marine operations. C. Krahforst said that in review of the license, it speaks to the pier, but not the area where the boathouse is; a new or amended Ch. 91 License may be needed for the proposed project. A. Panebianco said that commercial uses are allowed under the zoning. C. Krahforst said that may be the case, but that does not mean that it is permitted. C. Krahforst noted that storage containers are oriented to create a courtyard for operations and this should be captured in the Notice of Intent. He then added that the NOI application only lists impacts being 179 sq. feet but when one builds a structure in a resource area, the area that is impacted is the square footage of the structure, not just the footprint of the foundation. He then added that if an area is LSCSF, even if there is a FEMA approved foundation, there is some channeling and potentially some scouring. Ultimately, the NOI may greatly underestimate impacts to the resource areas.

Krahforst noted that the use of the beach and Town lot is not licensed and if the abutting property owners intend to continue use of it, they must first obtain a license. Krahforst then noted that the proposed location of structure is outside of VE zone and in an AE 10, but the VE zone is less than a foot from the structure in some areas. He spoke with CZM

regarding this which reaffirmed his understanding that there is a transition from VE to AE 10 and therefore the area will likely experience VE zone impacts as it transitions between the zones.

Krahforst then reminded the Commission that there is an active Enforcement Order that was issued requiring that the property owners not only cease and desist all activities associated with this structure other than to remove the structure and return the resource areas to its pre-existing grade. Although the Order is active and the property owners are not in compliance with it, it is a separate issue; Enforcement Orders do not prohibit a property owner from submitting a Notice of Intent. He concluded by stating that the Town and property owners are going to court on the matter on 12/23.

Krahforst noted that the structure has been losing some of its material to the surrounding areas and this is being documented. He suggested that this could be considered a matter of pollution. He then concluded that he believes that the Commission may want to initiate a peer review on the delineation of the resource areas since there is inconsistencies between expert delineations. Humphries agreed with Krahforst that the landward boundary of beach be consistent with the dune line. He said that there is no coastal bank nor hard engineering structure in the area directly in front or seaward of the building, so it is there that the applicant's resource delineation is more or less just an elevation-based resource delineation. The Land Subject to Coastal Storm Flowage (LSCSF) in the areas other than areas delineated as dune is based on a couple of things 1) soils, which are mapped as urban (indicates that there is fill) 2) the delineation by DEP only shows beach in front of this parcel. Humphries said that it is not entirely accurate stating that the project requires a Ch. 91 License and that they are doing investigation work into ownership of the pier and when it was built. Any material that is trapped by such a structure, built by someone else, is looked at by DEP as adding jurisdiction to the current owner—there is a question on if Ch. 91 jurisdiction is based on MHW now or historic high water. He added that there was a landmark case on this in Harwich. Humphries then stated that if a LiMWA is consistent with the VE zone boundary, it is saying that offshore there are 3' waves and at the LiMWA line it goes down to 1.5' and therefore they understand that there is a transition from the VE to AE zone.

The Commission questioned if there is any documentation if marine operations are permitted in this portion of the site, to which C. Krahforst said there was a permit from 1979 and there have been proposals, which have been withdrawn. He concluded that there isn't anything in the Conservation Department for marine operations or boat storage in this area. D. Ray responded by saying that work on the pier was permitted in 2002, to which Krahforst responded that the permitted work was for the pier, not the area where the boathouse is proposed. Further, Krahforst said that in the Secretary Certification, it talks about activities that are confined to access across a specific area for use of the dock/pier. The Certification also notes that the barges were moored where they weren't supposed to be. The Commission asked if they should take into consideration the unpermitted activities with the NOI application, to which C. Krahforst said that the Commission has required past applicants to address any unpermitted activities onsite.

A Commissioner expressed concern about the proposed use, intent of the project, and lack of supporting narratives; what exactly will happen inside. Concern was expressed that the site seems to not comply with requirements and therefore would the applicants comply with conditions that the Commission would impose? Another Commissioner noted that other marine operations in Hull comply with requirements.

The Commission opened the hearing up to the public for comment.

- Jeff Reed said that he is a longtime resident and has observed a lot of marine activities over the years, which has never stopped, whether it has been permitted or not. He said that we can't look at the property for not being permitted, but more so the actions of the Town for allowing that to happen.
- Randy Gould said that there has been boat operations onsite for years. He said that in 1972 there was no sand on the beach. He said he was there when the pier was permitted and at that time was concerned about his ability to drive onto the beach for his mooring, which he is now unable to do as there is 4.5' of new sand. Gould said that he has concerns about the project including 1) will it be off of Town property and 2) will it be able to meet building codes. Gould said that the sand has moved from the other side of the point and that he shovels the sand each year. The Commission said that there is no mention on sand removal in the application and that if any such work is proposed, it must be permitted.

D. Ray asked what would happen if a peer review would happen and said that if it would just help determine if the building would need to be on driven piles and if that's the case, they would consider revisiting the foundation prior to having a peer review initiated. D. Ray then stated that the public is aware that there is a public beach and that the building is not polluting the site.

The Commission concluded that a narrative describing proposed use and activities needs to be provided, in addition to further investigation on what activities are permitted on site. The Commission also suggested that the applicant and representatives address what was discussed and included in the Memo provided by Krahforst. The Commission determined to hold off on obtaining three quotes for a peer review until the requested information has been provided.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and a **vote** of 5-0;  
It was **voted** to:

**Continue** the Public Hearing to January 28, 2019 at a time TBD.

**Certificate of Compliance Requests**

1 Hampton Cir. (NE35-568) – P. Epstein **Motion**, L. Sorgi **2<sup>nd</sup>**, **vote 5-0**; Issue CoC.

73 Manomet Avenue (SE35-1409) – P. Epstein **Motion**, L. Sorgi **2<sup>nd</sup>**, **vote 5-0**; Issue CoC.

**Continued and New Business**

Schedule public hearing to scope sand source for dune restoration opposite 131-145 Beach Ave (no discussion)  
(new)

**Violations and Compliance issues**

(new) ACEC discussion: A Commissioner said that they are long overdue for having specific regulations on the ACEC. The Commissioners agreed to think about regulations.

(new) Docks: A Commissioner said docks on beaches should be addressed. Krahforst said that when harbormaster issues a permit, there is a condition which states that floats can't be left on the beach. Commissioner Stone offered to work as a liaison with the Harbormaster.

(new) 180 Main Street: Krahforst read aloud the letter the Conservation Department sent, requesting that someone be present on 1/14/20 to discuss the outstanding non-compliance. A Commissioner noted that advertising banners have been installed, but the windscreen hasn't been corrected. Another Commissioner suggested that if the issue remains in non-compliance for much longer that the Commission take further action, possibly including attending a School Committee meeting.

**10:25** Upon a **motion** by P. Epstein and **2nd** by T. Best and a **vote** of 5-0;  
It was **voted** to: Adjourn.