

# TOWN OF HULL CONSERVATION COMMISSION

## Meeting Minutes February 28, 2023

**Members Present:** Paul Paquin (PP), Chair, Sam Campbell (SC), Lou Sorgi (LS) Tammy Best (TB), Katherine Jacintho (KJ), Danielle Dolan (DD)

**Members Absent:** none

**Staff Present:** Ian MacDonald (IM), Administrator; Chris Krahforst (CK), Director; Renee Kiley (RK), Clerk

**Staff Absent:** none

### 1. Call to Order

- a. Review of Agenda, Overview of Hearings Procedure
- b. Approval of Draft Minutes as amended– February 14, 2023 motion by LS 2<sup>nd</sup> by SC. Roll call: DD-aye, KJ-aye, LS-aye, PP-aye, SC-aye, TB-aye  
Approval of Draft Minutes as amended- January 24, 2023 motion by LS 2<sup>nd</sup> by SC. Roll call: KJ-aye, LS-aye, PP-aye, SC-aye, TB-aye, DD- abstain.

### 2. Requests for Determination of Applicability

- a. **135 Kingsley Avenue. Map 26/Lot 155. *Opening* of a Public Hearing on the **Request for Determination of Applicability** filed by Enzo & Cynthia Barbuto for work described as **Remove existing asphalt driveway and walkway. Construct new permiable driveway and front walkway.****  
**Abutter Notification:** RDA, none required. **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:** 02/26 & 2/28  
**Representatives:** Enzo & Cynthia Barbuto  
**Abutters/Others:** none  
**Documents:** RDA, annotated assessor's map  
Barbuto: We don't have an asphalt driveway; we do have an asphalt walkway. We want to level the area and install permeable pavers for our driveway and walkway. Commission: Is there a survey or a plot plan? We have to be sure that the walkway is on the property. Barbuto: Everything is within the fence line. Commission: Is the size of the driveway listed? IM: The RDA states that they will install a 6" base of ¾ crushed stone. Commission: Do you know the size of the driveway and walkway? Barbuto: We're not sure of the dimensions. We'll keep the same sizes. Commission: We need you to stay 3' away from the property line and we need to know the dimensions. Commission: Can we condition a negative determination until a satisfactory drawing is submitted? Barbuto states the driveway is going where the mud is. Commission: That is too vague. We do need a more accurate drawing. CK: Given the (existing location) of the fences, would the Commission be okay (to condition the RDA) so that they meet the building code requirements (setbacks required: 3' from property boundary and 3' from house)? Barbuto: 36" is too far from the property line. We are within the fence. Commission: There isn't a driveway already there. Barbuto: There is a mud driveway. We couldn't get approval for asphalt like everyone else in the neighborhood. We thought that we were doing everything correctly. Commission: If someone told you that asphalt can't be used, that isn't true. We haven't been asked for any other type of material (to be used) other than the proposed permeable pavers. Without a survey you don't know where your property line is.

Motion to issue a negative determination with the special conditions that the driveway be 3' off of

the side of the neighbor and the driveway plan with dimensions and location including 3' from the by LS, 2<sup>nd</sup> by SC. No vote.

Barbuto: We don't understand the motion (before the Commission). Commission: We have always required 3 feet of empty space when we don't know where the boundary is. We don't have a drawing (showing where the proposed driveway with the dimensions and relative location to the property boundaries and home); it could be a 2-3 foot buffer. A survey isn't necessary; we just need to have a more detailed drawing. We also need to allow for infiltration.

Motion to continue to 3/14 meeting by LS, 2<sup>nd</sup> by SC. Roll call: KJ-aye, LS-aye, PP-aye, TB-aye, DD abstain.

3. Notices of Intent

- a. **Peddocks Island (DCR). Map 61/Lot 112 (SE35-1748) Opening** of a Public Hearing on the **Notice of Intent** filed by the **Department of Conservation and Recreation** for work described as: **Installation of new lighting on the pier, trenching for new conduits. Abutter Notification: Required- no abutters** **Resource Areas: Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Coastal Bank** (storm damage protection and flood control, likely wildlife habitat) **Land Subject to Coastal Storm Flowage: VE 18'**, (storm damage and pollution prevention, flood control). **Estimated Habitat of Rare Wildlife** (Likely rare wildlife habitat conservation), **Site visits done:** not done

Representatives: Kevin McHugh, Victor Moreno

Abutters/Others: none

Documents: Proposed Plan

McHugh: DCR is (proposing a lighting project to) install 14 posts on the pier and trenching for new conduits; most of the conduits were installed under the pier during construction. There is 165' of trenching proposed in the buffer zone, from the visitor center to the first existing handhold (EMH-3 on plan) to connect the conduits. Then another 50' of trenching to install conduits from electric handhold (EMH-5) to the pier. Trenching in the resource area will be hand excavated. There is a dry hydrant in the area. We expect that the excavating and installation of new conduits will be 1 day of work and will be backed filled with excavated material. Prior to excavation, we will install straw wattles (for erosion control). Lighting will be installed on the pier, as well as lighting and electrical outlets in the shack on the pier for visitors. DCR has gone through (MA Historical Society review), filed with the Natural Heritage Program (NHESP), and Chapter 91. IM noted for the Commission that the applicant has provided a storm water report. McHugh: Does (the Commission) need to wait for the review from (NHESP) and Historical? IM: Yes. CK: If it is protected habitat, (the Commission) has always waited for the required review from NHESP (when a project area is within their jurisdiction) before issuing an Order of Conditions. Commission: When will the lights be on? Will they be safe/appropriate for migrating birds? Will they meet DEP & MA Audubon standards? McHugh: The (lighting) will be on timers; these are consistent with DCR requirements that all bulbs point straight down. Commission: Will the lights have shades or hoods? McHugh: They will have hoods and the light will point down. Commission: Can we require red lights? Is it in the guidelines from DEP or MACC (for minimizing impacts to habitat) or do we have any information that red lights are better for animals? McHugh: We do have an existing Chapter 91 license. CK: May I reach out to Gina (Purtel of) MA Audubon? Can DCR please send the planned time protocol proposed for these lights?

Motion to continue to 3/14, 2<sup>nd</sup> by SC. Roll call: LS-aye, PP-aye, SC-aye, TB-aye, DD-aye, KJ-aye.

- b. **18 Bay view Street. Map 03/Lot 064 (SE35-1747) Opening** of a Public Hearing on the **Notice of Intent** filed by **Kenan Connell** for work described as: **After-the-fact installation of fill for driveway maintenance. Abutter Notification: proof provided. Resource Areas: Salt Marsh, Buffer to salt Marsh, Vegetated Wetlands Land Subject to Coastal Storm Flowage: AE 10. Site visits done:** 02/26-2/28

Representatives: Kennan Connell

Abutters/Others: none

Documents: Proposed plan, DEP overlay, CZM SLAMM (Sea Level Affecting Marshes Model) maps, Google Earth Image

Connell: I overlaid the (area with crushed) stone. (The road) is a private way. It was pot holed. CK gives permitting background: This project (including the roadway and underlying utilities) was permitted in 2000. There was an old pre-existing building and a NOI was filed (to construct new home on pilings). The Commission denied the project on the basis that it would negatively impact the salt marsh. DEP issued a SOC (in 2001 for the construction of new home on piles including a roadway with utilities). DEP did not think that the project would negatively impact the resource area (salt marsh). The key question for today relative to the addition of fill to the area is: where is the extent of the salt marsh relative to where this work is/has being/been performed? If it is within a salt marsh, the project would require Water Quality Certification. DEP map layers (SLAMM model for wetlands) shown. These layers indicate that the road is outside of the marsh system. CZM SLAMM model from 2011 also shows the road to be outside of that. However, a wetland delineation is usually only good for 3 years. We don't know where the extent of the salt marsh is (relative to this work). The Commission can go on a 2<sup>nd</sup> site visit to determine if the road is outside of the wetlands. Commission: I think that the wetlands should be delineated. The data-layers clearly show that the road is outside of the salt marsh. You can see that it was a salt marsh until someone put a road in it. This is sensitive area. Who owns it? (The applicant) may have deeded access to (the road). CK: The Town does not own this road, it's a private way. The SOC gives this project the right to maintain the utilities and the accessway (road) to the property. Connell: I just bought the house last December. I'm trying to be a good neighbor. I've done a lot of hand picking of trash and debris out of the marsh. Commission: We need to decide how wide the area of the fill is. Is it appropriate for staff to go out and measure the area? CK: That would be the applicant's responsibility to provide the dimensions (of the added fill). DEP is asking the Commission if work has been done in a salt marsh. Commission: The question before us is it currently a salt marsh? I'm not qualified to say. The road is not a salt marsh; it is transecting a salt marsh. It's not the Commission's job to delineate wetlands. It's the applicant's responsibility to provide the delineation. If we don't delineate the wetlands, the road could continue to get larger. There has to be a limit. We need a (wetlands) delineation. We can't allow the road to grow or erode into the salt marsh. Connell: There was a recent installation of a drain (in the marsh); the town was here digging out the trenches. Am I being asked to get a wetlands delineation all the way to the street (Ocean Ave)? Commission: It should include the road (Bayview) and parking area. Commission: Is there any documentation on the road dimensions? Did DPW put in drainage if it's a private road? Why is DPW working in the area? The trench digging was (probably) for mosquito (control). CK: DPW was performing maintenance on an existing stormwater utility and coordinated with our Dept. Also the trench digging was from the Mosquito Prevention and Control and this is an exempt exercise under the WPA. Connell: Can you recommend someone (to do the Wetlands Delineation)? IM: It would be a conflict of interest (for the Commission or the staff to recommend a contractor for you). Commission: Can (the applicant) call another town and ask them? Connell: I am the Weymouth DPW director. Commission: You may want to reach out to the Marshfield Conservation Commission or the North and South River Watershed Assoc. Also, the MA Assoc. Cons. Commissions has a directory of resources you can find on their URL. Connell: May I continue this project for 1 month? IM: This is within Chapter 91 jurisdiction also. Commission: You may want to look into the c. 91 license. CK: The Commission usually conditions an order such that a c. 91 license is required or appropriate correspondence indicating otherwise.

Motion to continue to the 3/28 meeting by LS, 2<sup>nd</sup> by SC. Roll call: PP-aye, SC-aye, TB-aye, DD-aye, KJ-aye, LS-aye.

- c. **105 Manomet Ave. Map 21/Lot 067 (SE35-1746) Opening** of a Public Hearing on the **Notice of Intent** filed by **Neil & Cynthia Toland** for work described as: **Raze the existing home, and replace with an elevated new single home on a concrete foundation equipped with flood vents. Notification: proof provided. Resource Areas: Barrier Beach** (storm damage prevention, flood control, likely wildlife habitat); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: FEMA AE 12'** (storm damage and pollution prevention, flood control). **Site visits done: 02/26 & 2/28**

Representatives: Neil Toland, Ken Thompson, Chi Man

Abutters/Others: Susan Mann

Documents:

Thompson proposes to raze the existing home and construct new home on a concrete foundation with floor vents. The plan includes decreasing the impervious material by 44 ft<sup>2</sup> on the property and Provide stormwater run off and the roof run off (treatment). We propose two "floor wells" which will be 5' in diameter; a dry well in the driveway. The driveway is proposed to be 11' wide, 85' long, 3' off the boundary, and 5' from the house. Commission: Are you tearing down the garage? Thompson: We are planning on keeping the garage. Commission: Is the driveway there already? Thompson: (Yes) There is one break in the driveway. The footprint of the proposed house will be smaller (than existing). Commission: What is the driveway going to be made of? Thompson: Concrete. Commission: Are you decreasing the concrete (area) in the back? Thompson: The engineer determined a 44 ft<sup>2</sup> decrease in all impervious surfaces on the property as a result of the proposed project. Commission: Is this plan a survey? Thompson: Yes. Mann: Are the proposing to tear down the house? What will be the impact be to the neighborhood? Chi Man: Usually, the process is you cut and cap the utilities, do any abatement, making sure all lead or asbestos is removed. There will be a dumpster and excavator (kept) on Manomet Ave. The house could be down in a few hours. The contractor will get a hydrant license from the water department to spray the house to mitigate dust (during demolition). Commission: And the foundation will be removed. The Building Department will have to make sure that all hazardous materials will be removed. Mann: Do you know the time frame? Toland: As soon as possible. Mann: It will be nice to have something new to look at. Commission: There is a public railway bed adjacent to and behind this property. Do not go on to it (with any of the work of this project).

Motion to issue an Order of conditions with the special condition that all debris be removed and taken out of town, including the foundation material by LS, 2<sup>nd</sup> by SC. Roll call: SC-aye, TB-aye, DD-aye, KJ-aye, LS-aye, PP-aye.

- d. **51 Harborview Road. Map 56/Lot 028 (SE35-1735) Continuation** of a Public Hearing on the **Notice of Intent** filed by **Thomas P. Fitzgerald** for work described as: **Complete slope stabilization project for a portion of the northerly slope. Abutter Notification: proof provided. Resource Areas: Coastal Bank:** (Storm damage prevention and flood control); **Coastal Dune** (storm damage protection and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: FEMA VE 20'** (storm damage and pollution prevention, flood control). **Site visits done:** many times. *The applicant's representative has requested a continuance to March 14.*

Motion to continue to 3/14 by LS, 2<sup>nd</sup> by SC. Roll call TB-aye, DD-aye, KJ-aye, LS-aye, PP-aye, SC-aye.

#### 4. New Business & Inquiries

- a. Administrative review recommendation(s).  
CK: Recommend that the Commission not entertain administrative reviews. The Commission agrees.
- b. SE35-1684 DEP SOC for Malta Dune Area Project  
CK: DEP issued a SOC for the Malta St. Project. The project is permitted by DEP to go. We are in litigation with 33 Malta Ave. regarding ownership rights. Commission: Is there only one litigant? CK: Only 33 Malta is in litigation (with the Town). As far as the Commission goes, this project is complete. As far completing the dune project through state grants, this project is stalled in litigation.
- c. DEP appeal of OOC SE35-1722 (299 Nantasket Ave)  
CK: This project is for 299 Nantasket Ave (SE35-1722) which is the house behind a restaurant (The Sandbar) across the street from the hotel (Nantasket Beach Resort). An abutter appealed the project, concerned that this would be a storm water runoff nightmare. DEP wants to take a closer look at this project. Commission: Did we permit it with permeable pavers? CK: Yes.
- d. WPA Fee increase article for Annual Town Meeting Warrant  
CK: This a proposal for WPA Fee increases to be more aligned with neighboring coastal communities. The Commission has been seeking a doubling of fees for after-the-fact projects. The Select Board approved the fee increase but, after talking to outside counsel, this (fee increase) needs to go to

The listings of items are those reasonably anticipated by the Chair which may be discussed. Not all items listed may in fact be discussed and other items not listed may also be discussed to the extent permitted by law

- town meeting for adoption. There is a place holder for this article on the upcoming Town Warrant.
- e. Open Meeting Law targeted to sunset March 31, 2023
- Commission: The Commission meetings might need to be in person CK: I'm hoping that clarity will come shortly. Town Counsel thinks that the order will be extended.

5. Violations & Compliance

Welcome to Danielle Dolan

8:09pm

Motion to Adjourn by LS, 2<sup>nd</sup> by SC) Roll call: LS –aye, SC-aye, PP-aye, TB-aye, DD-aye, KJ-aye.