

TOWN OF HULL CONSERVATION COMMISSION

Meeting Minutes March 28, 2023

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

Members Absent: Katherine Jacintho (KJ),

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

Staff Absent: none

AGENDA

6:30 PM

1. **Call to Order**
 - a. Review of Agenda, Overview of Hearings Procedure
2. Approval of Draft Minutes – March 14, 2023. Motion to approve the minutes **Notices of Intent**
 - a. **Peddocks Island (DCR). Map 61/Lot 112 (SE35-1748) Continuation** 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: Not required.**
Resource Areas: Coastal Beach (storm damage prevention, flood control, and protection of wildlife habitat); **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: VE 18',** (storm damage and pollution prevention, flood control). **Estimated Habitat of Rare Wildlife** (Likely rare wildlife habitat conservation), **Site visits done:** 03/13.

Representatives: Kevin McHugh, Victor Moreno

Abutters/Others: none

Documents: Natural Heritage & Endangered Species Program letter

Commission: Any changes to the project since our last meeting? McHugh: No changes since the last meeting. We were waiting to hear back from Natural Heritage; we did receive a letter from them since we last met. Mass DEP Waterways Program (C. 91) did agree with the proposal that this project is a minor modification to a previous license. There was a question about the schedule of construction. It will need to go out to bid and the state fiscal year ends in June. Thus it may have to be delayed to the next fiscal year. Commission: What about the hours for the new lighting? McHugh: DCR is hoping to have the lights on from dusk to dawn, primarily for safety concerns. Commission: What about using red lights? McHugh: DCR would prefer not to use red lights for safety concerns. Commission: What about a warmer light? McHugh: DCR would consider a warmer light. Commission: Any trenching done will need to return the resource to its original state.

Motion to issue an Order of Conditions with the special conditions (1) that any trenching that is done will return the resource to its original condition and (2) DCR will discuss with the Commission before lights are purchased the types of lights to be used that minimizes wildlife disruption by LS, 2nd by DD. LS-aye, PP-aye, SC-aye, TB-aye, DD-aye.

- b. **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.

Representatives: Mathew Watsky, Tom Fitzgerald

Abutters/Others: Barry Fogel, Ernest Lentini, John Struzziery

Documents: Slope Stabilization Plan, May 2022 Enforcement Order, Photos of drain installations.

Watsky: I would be happy to discuss the meeting that I had with Chris Krahforst, the Building Inspector, and Town Counsel. The Commission provided us with a list of items that they wanted us to discuss. The technical details will be sent for peer review. We had Dr. Rosen, coastal geologist, prepare a detailed letter and had CEC prepare detailed alternatives analysis. We spoke about what Tom Fitzgerald; owner has done to comply with the enforcement order and the other Order of Conditions. One issue was that the applicant needs a building permit. Watsky states the OOC is still valid via COVID Extension and details the plan to address non-compliance; obtain building permit for after-the-fact construction of Earth Retaining System (ERS), whether to proceed with build elements that don't need a building permit i.e., move patio back 10 ft. from the top of the bank, install drainage, re-vegetate, or to "sit tight". Watsky details that in order to receive a building permit for the ERS that has been started) a review for the drain installation and the engineer of record to certify that given the existing conditions he should still recommend that the project be continued in this manner would be required. Watsky: The engineer has certified that the previous plan will work with the soil nail technology in conjunction with the earth retaining structure (and) would stabilize the entire site. I would not expect the Commission to comment on the letter sent by Dr. Rosen due to the time it was delivered to the Department this afternoon, prior to this meeting. CK thanks to Mr. Watsky for the accurate description of meeting discussion with the Building Commissioner and Town Counsel. CK states that the ERS project still does not have the required building permit, that elements of work under previous OOCs have never been parsed out as requiring a building permit or not, and details the intent of the Enforcement Order to deal with non-compliance and to submit a NOI to address the erosion issue. CK: The Commission asked (1) that a plan to address non-compliance be provided, (2) detail alternatives, which were submitted and (3) address issues related to application of proposed technology and coastal processes- to which the applicant submitted the Rosen Letter. There is enough material to go forward with a peer review if the Commission makes the motion to do so. Commission: What was required of the applicant by the EO? Resource area alterations resulting from said activity shall be corrected and the resource area returned to their original condition by 1. Complete a NOI to restore bank, and 2. Obtain a building permit. The Commission discusses the merits of removing the pavers from the top of the coastal bank and proceeding with drainage installation; considers whether to cease & desist any activity until a comprehensive peer review; include an analysis of the bank stability if no un-permitted construction was done. Lentini: Will we be privy to the alternative analysis? Commission: You can get a copy from the Department. Lentini: Mr. Struzziery commented at the last meeting that he was concerned that if the drains in the soil nail structure were to become clogged that it would create excess runoff over into the abutter's properties. Do any alternatives take care of that? Commission: We will see. Barry Fogel: Referring to the photographs of the inlet drains asks if they are they currently in place. Watsky: The drains were installed at the same time the patio was installed. They have not been connected to the two surface drains in the center of the patio. There is no surface draining functioning at the moment. Barry Fogel: When was the photograph taken? Fitzgerald: The drains were installed the summer of 2020. Fogel: Before or after the extension of the deck. Fitzgerald: After. Fogel: How are the gravel drains supposed to function? Fitzgerald explains where these drain elements are located. Fogel: Where is the water directed? Fitzgerald: into the basin. What isn't connected is anything laterally, which we will plan to connect with this project. Fogel: It appears that when the pictures were taken no deck and patio are in place. In the EO, it states the resource area shall be corrected and returned to the original condition even in the new filing. Commission: The new filing has not been accepted. Fogel: The letters that we received will have comments from our coastal geologist. We hope that you request a peer review to look at alternatives, including if no work had been done. Commission: Can CK walk us through the alternatives that have been presented? CK: Respectfully no. I think that the applicant should present their alternatives analysis. Struzziery: The Sewer Department's interest is with the pipeline at the bottom of the embankment. It appears that the catch basins are acting as dry wells. If

it's a dry well, then the water infiltrates at that immediate location. Is that the correct purpose of the drain? CK: I don't see where the trench is on the ERS plans. Struzziery: The dry well is closer to the embankment. We are concerned that it's putting further stress on the embankment. The intent should be to collect the water at the higher area and redirect it. This plan does not address what the outcomes to the abutting properties would be. The remaining part of the slope is subject to failure and should be included in the plans going forward. The peer review should address the entire package not just pieces of it. The Sewer Department is concerned on the impact of the pipeline. Commission: We need to have a peer review covering the entire project. What portion of the slope failure was caused by the unpermitted work? It doesn't make sense to go through the alternatives until we have the peer review. The Commission stated that no further work should be done until that is completed. Watsky: I disagree with work being done without permits other than a building permit. The conditions on site have a wetlands permit. I agree that a peer review should be done.

Motion to continue until 4/11 and authorize the Director to select a peer reviewer by LS, 2nd by SC.
Roll call: PP-aye, SC-aye, TB-aye, DD-aye, LS.

- c. **18 Bayview Street. Map 03/Lot 064 (SE35-1747) Continuation** 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**
Representative: none
Abutters/Others: none
Documents: none
Motion to Continue until 4/11/2023 by LS, 2nd by SC. Roll call: SC-aye, TB-aye, DD-aye, LS-aye, PP-aye.

- d. **44 H Street. Map 16/Lot 142 (SE35-1754) Opening** of a Public Hearing on the **Notice of Intent** filed by **Michele Krantz** for work described as: **Install shower enclosure, remove existing concrete patio and install permeable pavers' approx 380 ft². Abutter Notification: proof provided. Resource Areas: Barrier Beach (storm damage protection, flood control, wildlife habitat); Possible 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: 03/27**

Representative: Michelle Krantz
Abutters/Others: none
Documents: Proposed Plan
Commission: No less than 6 feet from the property line.

Motion to issue an Order of Conditions with the special condition that the patio be no closer than 6 ft to the property boundary by LS, 2nd by SC. TB-aye, DD-aye, LS-aye, PP-aye, SC-aye.

3. Amendment to Order of Conditions

- a. **0 Moreland Ave. Hampton Circle Playground Map 36/Lot 048 (SE35-1734) Opening** of a public hearing to the **amendment to the Order of Conditions** filed by **Phil Lemnios** for work described as: **improvement to the existing playground and surrounding area, including resurfacing the playground area, installation of new play equipment, construction of asphalt walkway, installation of stormwater management, site grading and plantings. Abutter notification: proof provided. Resource Areas: Salt Marsh, Buffer to salt Marsh, Vegetated Wetlands. Area of Critical Environmental Concern (Weir River) Subject to Coastal Storm Flowage: AE 10. (Storm damage and pollution prevention, flood control). Site visits done: 03/27**

Representative: Chris Dilorio
Abutters/Others: Beth Chapman, Byran, Ryan Stone/ Murphy 129 Hampton Circle.
Documents: Revised grading plan

Dilorio proposes to raise up both the play structure and swing set an additional 2 ½ feet, rise up from
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elevation 6 to elevation 8.7. Commission: No storm mitigation changes are proposed from previous OOC. This area floods and it will drain. This proposes fill in LCSF. There is no performance standards for LCSF set in place at the moment, and we don't believe it will impact runoff to the abutting properties. What will be on the surface material? Dilorio: The surface around the play area will be vegetated. Beth Chapman: When you raise something it doesn't change the direction of water? Will it change where the water goes? Will it send more water in my direction? Commission: It should not due to storm drains at a lower elevation. Chapman: There is a drain in front of my house and it is pooling during heavy rain. Commission: We will ask Ian to contact DPW to clean the drain. Chapman: It is not that the drains clogged, but the way that the land lies. Dilorio: Once the final Grading is in, it will move the water to the center of the playground. We are putting in swales at lower elevation to direct water into the middle of the park. There will also be a new drain by the parking area to move water off of the street. Bryan: There is an issue with the drain. It is broken under the seawall. If the playground floods, it will be dispersed in to the neighboring house. Commission: The land gets flooded as the water level is rising everywhere. Bryan: It's like a fish bowl and adding a castle. Once you add it, the fill water level will rise. Commission: The problem with the fish bowl comparison is that there aren't any walls. Flood waters have infinite flooding and infinite drainage from the two bays. Bryan: Technically, there is the sea wall and the street, 6 or 7 feet above the playground. The playground fills up. If the drains are full it's not going to drain. If the water level rises higher than the seawall, and fills the playground before it starts receding therefore, displacing additional water from the playground. It will cause the water to disperse to people's properties. Dilorio: I don't agree. The playground will not be directing runoff to the neighboring properties. As the elevation of the ocean rises, a bump in the middle isn't going to displace much water. Commission: We already have a bump in the area. It is already permitted to 6 feet and the change to 8 feet won't be a major change. Bryan: Material added displaces water. Commission: Do we have an actual volume of fill? Dilorio: It is an additional 313 cubic yards of fill. Chapman: The ground gets saturated and once it's super saturated, there will be rivers. I don't see why not to expand the swales. Commission: The engineers designed the swales to the maximum depth. You can't create more floodplain storage within a floodplain. This area is always going to flood. The amount of water depends on the nature of the storm. Even if we put in a massive drain it will flood at some time. Ryan Stone/ Murphy, 129 Hampton Circle: We are concerned about additional fill. We get about 2 feet of water in our backyard and into our basement. Our situation is bad and we cannot afford an increase in flooding. Commission: Flooding will continue in this area. It won't be related to the amount of fill, but dependent on storm surges. 129 Hampton: The drains don't work well; it takes a long time to drain our backyard. We wanted to state our concerns. Commission: We are aware of the problem in the area. The best solution is to raise homes. Struzziery: The Town has been analyzing the Hampton Circle area for climate impacts, including flooding. Please get active with the group. The playground isn't going to impact the on-going planning. The improvement will take a long time. DPW is considering bringing in portable pumps to the area if needed. There is a long term plan being created.

Motion to issue an Amendment to the Order of Conditions by LS, 2ndd by DD. Roll call: DD-aye, LS-aye, PP-aye, SC-aye, TB-aye.

- b. **259 Kinglsey Ave. Map 22/Lot 142 (SE35-1742) Opening** of a public hearing to the **amendment to the Order of Conditions** filed by **Jeffery Asmar** for work described as: **Install deck footings, and concrete pad. Abutter Notification: proof provided. Resource Areas: Coastal Dune:** (Storm damage prevention and flood control, likely wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10.** (Storm damage and pollution prevention, flood control).

Representative: Jeffery Asmar

Abutters/Others: none

Documents: Revised plan

IM: The previous Order of Conditions shows that the stairs were located, in part on Town property. To receive a license from the Town, the applicant needed to get a survey. Thus, the applicant is seeking an amendment to move the proposed stairs by 3 feet so that it is completely within the applicant's property boundary. Asmar: I am happy with the design change.

Motion to issue an Amendment to the Order of Conditions by LS, 2nd by DD. Roll call: LS-aye, PP-aye, SC-aye, TB-aye, DD-aye.

4. Certificate of Compliance

a. 45 Hull Shore Drive (SE35-1526)

Motion to issue a Certificate of Compliance by LS, 2nd SC. Roll call: PP-aye, SC-aye, LS-aye, TB-aye, DD-abstain.

5. Permit Extension request

a. 95 Clifton Ave (SE35-1405), 2nd extension request

John Richardson: (technical difficulties) CK: FEMA flagged the project as fill was brought into the V zone to remove the structure from being in the V-Zone. This is not allowed under Federal Regulations. The Department and Building Commissioner met with FEMA and Mr. Richardson about the fill issue about a year ago. IM: The extension request is for until 4/2024. CK: Changes to the proposed project may be needed. Mr. Richardson can't come to the Commission for a Certificate of Compliance until the project has gone through this process. Commission: Extending this project doesn't cause any WPA problems.

Motion to extend the Order of Conditions for one year after the order expired dates by LS, 2nd by SC. Roll call: SC-aye, TB-aye, DD-aye, LS-aye, and PP-aye.

6. New Business & Inquiries

Commission: Can we get the clip board with plans? IM: Yes, what day? CK: Traditionally, the Commission gets together on Sundays to do site visits, or on alternate Tuesday nights during the longer daylight period. In addition, the office is available to do site visits on Mondays. Commission agrees to meet on alternative Tuesday's at 6PM, Town Hall for site visits.

Commission: Orders of Conditions that never recorded during the COVID emergency are they not valid. CK: If work is started before an Order is recorded, the applicant may have invalidated the Order of Conditions.

Commission: Can we get a timeline on the events pertinent to 51 Harborview Road? CK: We can add additional details the timeline that is contained in the Dept. memo pertaining this project.

7. Adjourn

8:21 Motion to Adjourn by LS, 2nd by SC. Roll call: TB-aye, DD-aye, LS-aye, PP-aye, SC-aye.