

TOWN OF HULL
CONSERVATION COMMISSION
Meeting Minutes
April 25, 2023

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

Members Absent: None

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

Staff Absent: none

AGENDA

6:30 PM

- a. Call to Order
- b. Review of Agenda, Overview of Hearings Procedure

Notices of Intent

- a. **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: none
Abutters/Others: none
Documents: none
IM: At 4pm on 04/25/2023 received a proposal from the Peer Reviewer. Commissioner: Peer review as prepared and presented no budget included to include onsite visit.

Motion to continue until 5/09 by LS by 2nd by SC. Roll call: SC-aye, TB-aye, DD-aye, KJ-aye, LS-aye.

- b. **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.
Representatives: Kenan Connell, Bryan Taylor
Abutters/Others: none
Documents: Wetland delineation survey.

Commission: Why was the project continued? IM: It was continued because the Commission required a wetland delineation. Taylor: We have originally worked on site back in 2000, and 2005. Taylor had contacted Brad Holmes (wetlands specialist) to come out to the site and conduct the delineation and he said that everything behind the house is within a resource area. We did an As-Built plan in 2005 to close out that Order of Conditions and we then over-layed that information onto our current driveway site plan. The current location of the driveway is shown as dashed blue on the plan. The road has shifted. No additional fill has been added. At the end of the road about 340 ft², represented by the red hashed area on the plan, is where we propose to remove the extra fill and replace with native salt marsh grasses. Commission: Are you proposing to remove the fill placed within the entire red striped area? Taylor: Yes, removing all that is inside the red. Commissioner: Who will you use to remove the fill? Connell: I'm planning to do it myself. Commissioner: Can you annotate the plan to note where the planting will be done?

Motion to issue Order of Conditions by LS with the special condition that the gravel in the red (as shown on plan) be removed, no heavy equipment (outside of existing road) be used, the excess gravel be put within the road

layout, and the (impacted resource) area be replanted as outlined in the 4/19 memo, the plan be annotated accordingly, and, once completed, an As-Built plan is required and photos documenting restoration be provided to the Commission, 2nd by SC. Roll Call: PP-aye, LS-aye, KJ-aye, DD-aye, TB-aye, SC-aye.

- c. **631 Nantasket Ave. Map 20/Lot 002 (SE35-1758) Continuation** of a Public Hearing on the **Notice of Intent** filed by **Edvaldo DaSilva** for work described as: **After-the-fact installation of storm drain system, wall, and fence.** **Abutter Notification:** *proof provided.* **Resource Areas:** Barrier Beach (storm damage protection, flood control, wildlife habitat); Subject to Coastal Storm Flowage: AE 11. Site visits done: 4/4. *On 4/18, the applicant requested a continuance to 5/09*
Representatives: none
Abutters/Others: none
Documents: none

Motion to continue until 5/09 by LS, 2nd by DD. Roll call: TB-aye, DD-aye, KJ-aye, LS-aye, PP-aye, SC-aye.

- d. **64 E Street. Map 17/Lot 108 (SE35-1757) Continuation** of a Public Hearing on the **Notice of Intent** filed by **Steven Jasa** for work described as: Install asphalt driveway. **Abutter Notification:** *proof provided.* **Resource Areas:** Barrier Beach (storm damage protection, flood control, wildlife habitat); Land Subject to Coastal Storm Flowage: AE 10. (Storm damage and pollution prevention, flood control). Site visits done: 4/4
Representatives: Steven Jasa
Abutters/Others: Jaqui Frongello 66 E St
Documents: Proposed Plan
Jasa shares with the Commission a revised plan which relocates the proposed driveway to the west side of the house. The proposed asphalt driveway is to be 11' wide, with 3' wide permeable buffers on each side of the driveway and 3' from the house. Commissioner: Where are the pavers? Jasa: Pavers were part of the old design. Jacqui Frongello: With the crushed stone buffer, how deep down will the rocks go to allow for drainage. Jasa: I haven't reached out to the contactor, but estimate that there will be 4"-5" bed of permeable stones. Commissioner: Are you aware that the proposed driveway has been moved to the other side and is no longer abutting your property line. Frongello: No, I wasn't aware.

Motion to issue Order of Conditions by LS with the special condition be that there is 3 feet wide permeable buffer on each side of the driveway, 2nd by SC. Roll Call: KJ-aye, DD-aye, TB-aye, SC-aye, PP-aye, LS-aye.

- e. **78 Lynn Ave. Map 22/Lot 175 (SE35-1760) Opening** of a Public Hearing on the **Notice of Intent** filed by **John Eric Doherty** for work described as: **Installation of new fence.** **Abutter Notification:** *proof provided.* **Resource Areas:** Barrier Beach (storm damage protection, flood control, wildlife habitat); Land Subject to Coastal Storm Flowage: AE 10. (Storm damage and pollution prevention, flood control). Site visits done: 4/18
Representatives: John Eric Doherty, Heather MacDonald
Abutters/Others: Kathleen McDonagh, Sinead McDonagh, Greg Jones
Documents: Proposed plan for fence.

Doherty: the proposal includes a stockade fence with 2 gates. Commissioner: There is already a fence on the property. Doherty: I believe that fence was part of the other DEP number. Commissioner: Your DEP number is not visible. There is a wood fence that was proposed in the previous NOI (SE35-1583). (The wood fence) was replaced with the black metal fence. Commissioner: Are we permitting the basketball court? Doherty: We did not include that (in the narrative of) this notice of intent and we will come back to the Commission in order to get permits for the court. K. McDonagh: How tall is the fence? Doherty: Not quite sure yet. Commissioner: That is not a conservation issue. K. McDonagh: What about the corner clearance? Is that under the Commission's jurisdiction? Commissioner: The Building department, Public Works, or the Police Department should be able to help with that. Greg Jones: Will there be a gate opening on Touraine? Doherty: There is proposed an opening on both streets, Touraine & Kingsley. Jones: Will the gate swing in or out? Doherty: It will swing or slide. I haven't decided yet. Commissioner: That is a Building Department issue. I don't believe that you can have a gate that swings out into the street. S. McDonagh: What about the weight of vehicles on the lot? Commissioner: That is not a conservation issue.

Motion to issue Order of Conditions by LS, 2nd by SC. Roll Call: DD-aye, KJ-aye, LS-aye, SC-aye PP-aye, TB-aye.

- f. **23 Warfield Ave. Map 24/Lot 068 (SE35-1761) Opening** of a Public Hearing on the **Notice of Intent** filed by **Henry Dunn for work described as: Proposed pool and shed. Revised as-built plan. Abutter Notification: proof provided. Resource Areas:** Barrier Beach (storm damage protection, flood control, wildlife habitat); Land Subject to Coastal Storm Flowage: AE 10. (Storm damage and pollution prevention, flood control). Site visits done: 4/18
Representatives: David Ray
Abutters/Others: none
Documents: Existing and Proposed Conditions Plan

Ray: The construction of the house was permitted last year. The home owner would like to add a pool and shed. The pool specs were submitted with the NOI. The shed will be 6 feet off the lot line. The pool will be to the right with a permeable patio around the pool. All pools are required to have fences. We will have to come back and permit it. Commissioner: Is the patio going to the lot line? Ray: It is close to the lot line. In Hull, a patio can go right to the lot line. Commissioner: What is the patio made of? Ray: It will be permeable pavers or wooden material off of the ground. Homeowners have not decided. Commissioner: Stairs have been moved from the previously permitted area and we decided to update the as-built plans to properly convey the current site, patio not constructed yet.

Motion to issue Order of Conditions by LS with the special condition that there be no discharge of pool water onto the the Town's stormwater drainage system, 2nd by DD. Roll Call: LS-aye, PP-ay, SC-aye, TB-aye, DD-aye, KJ-aye.

- g. **120 Nantasket Ave. Map /Lot 0 (SE35-1759) Opening** of a Public Hearing on **the Notice of Intent filed by 120 Nantasket LLC** for work described as: Proposed partial demolition of existing structure, and construction of 21 multifamily residences. **Abutter Notification: proof provided. Resource Areas:** Buffer to Coastal Bank (storm damage protection, flood control, wildlife habitat); Buffer to Coastal Beach: (storm damage protection, flood control, wildlife habitat) Land Subject to Coastal Storm Flowage: AO 3. (Storm damage and pollution prevention, flood control). Site visits done: 4/18
Representatives: Adam Brodsky, Jed Hannon
Abutters/Others: none
Documents: Proposed Plan, Photos of site.

Brodsky introduces the proposed project: The principals of 120 Nantasket Ave are Jonathan Leavitt and Enrique Darer. This project is the redevelopment of the old Aquarium. We have recently received a site plan and special permit (from the Planning Board). They are planning on 21 units of multifamily housing on the site. The site is not in the floodplain. There are no wetland resources on the site. There is a Coastal Bank on the other side of (the adjacent) State Park Rd. The project site is within the 100 foot buffer zone (of the Coastal Bank) and Nantasket Beach is nearby. This project proposes no impacts to the resource area. The project is separated by roads, parking lots, and, in some places, a seawall. We have provided a detailed plan for erosion control and very specific construction requirements in our special permit. We will also have to submit a construction management plan prior to the start of the project. We are proposing stormwater management best practices. The project has already had a stormwater review by John Chessia on behalf of the Planning Board. Hannon restates that the site is in the 100 foot buffer to the coastal bank. Hannon: The project is approximately 65 feet from the coastal beach. There will be minimal excavation. The existing foundation is in good, sound condition. All but 4 feet of the foundation will be removed. It is constructed of CMU Block. The only other excavation proposed will be for storm drainage and utilities. We will work with DPW & DCR for the utility tie-ins. Once we have final design drawings, we'll submit to the Building Department. In terms of the coastal bank, 100 foot buffer is shown by the dashed line (on the plan). From our topographic survey (we determined the top of the coastal bank according) to DEP's. Commissioner: Looking at the 100 foot buffer (delineation on the plan), does the pink bold line represent the existing foundation? Hannon: Correct. Commissioner: And the orange is existing concrete retaining wall on State Park Road? Hannon: Exactly. Commissioner: Are you keeping that? Hannon: There are a couple of cracks, we will inject epoxy in order to maintain stability. 95% (of the retaining wall) is in good condition. We have a geotechnical consultant and a structural consultant involved in this evaluation.

Commissioner: And the blue? Is that subsurface stormwater management infrastructure? Hannon: Exactly. Commissioner: Are you proposing to maintain existing structures within the buffer and building up from it? Hannon: Correct. Commissioner: And for Erosion control? Silt tubes, fencing, and that sort of thing? Hannon: Exactly. Commissioner: (Does this project propose to) tie into any public storm drains? Hannon: There is an existing stormwater infrastructure. Some of that piping will be utilized. The proposed use will be done in coordination with DPW and DCR. Commissioner: Is the existing concrete wall along the cliff face going to stay? Hannon: The existing foundation will stay. Some ledge will be removed for access for the foundation drain installation. There will be a little bit of ledge removal but we are trying to make it as least invasive as possible. Commissioner: Any concern of destabilizing the cliff face? Hannon: We have geotechnical and structural consultants working with us. It will be part of the evaluation. We will make sure that there are no impact or safety issues going forward. Brodsky: Can you confirm that the majority of the ledge is outside of the Commission's jurisdiction? Hannon: It is. Commissioner: I did read the peer review. The peer review references special conditions in the peer review for the commission to consider. I suggest that we ask Mr. Chessia, in conjunction with CK and IM, to put together a list of special conditions? Hannon: My suggestion would be to follow the special conditions outlined in the special permit and that can be referenced in the special conditions (of the OOC). Commissioner: If we haven't seen the special conditions we may not be able to adequately rule on conditions for this project. Are the floodplain boundaries pulled from GSI or contours? Hannon: It is both. We started with GIS and then applied the topographic layers to the area. Commissioner: The project is currently out of the floodplain. DEP is working on performance standards for land subject to coastal storm flowage. We don't have those yet. The surge of record could be further laterally towards the building. I would highly recommend the applicant to account for sea level rise and flooding in the future. Brodsky: We did consider that in the design. The project proposes a pass-through garage at grade with specific design features to address future climate change. It was a big issue in the site plan review. Mr. Chessia did review our floodplain analysis and verified the accuracy. All proposed special conditions were incorporated in the site plan/special permit decision. We have obtained a very detailed special permit that addresses overlapping issues, not only site plan review but zoning too. The review was cognitive of wetland issues. Commissioner: It is strange sitting here looking at Zone X, knowing full well that in every big storm that comes through here and the water comes pouring down that road. It is flowing salt water. There is something clearly wrong with the delineation but we're not going to do anything about it. Saltwater pours in next to the restaurant. At least that is what I've heard from many people and I believe that I have seen it myself. Are all the cars going to be parked underneath? Brodsky: That is correct. There is any existing stormwater condition issue associated with State Park Road. People may confuse regular stormwater (from precipitation events) coming down the hill and ending up in that location verses stormwater flowage (from coastal storm surges). We reviewed the issues and we can't fix everything. We designed this project to comply with the stormwater standards. Commissioner: This is a redevelopment project? On the state checklist it was checked as a new development project. If (this project) is a redevelopment project, the applicant can seek a waiver, but they did not. However the state stormwater guidelines are in the process of being revised, is a year past due, and will include low impact redevelopments. The stormwater report did meet all the minimum requirements. There were no low impact developments in the plan. It also referenced using the existing stormwater infrastructure, which may not be in (good) working order. I would like to see a reevaluation of the existing infrastructure. The plans for operation and maintenance (of the stormwater system appear to be) left to the homeowners. It is unreasonable to expect the individual condo owners to know how to take care of the stormwater management system. I would encourage you to include that homeowners hire a professional facilities manager. Brodsky: Mr. Chessia reviewed this to meet current standards. We are under no obligation to comply with future standards that may or may not be adopted in the near future. There isn't a great deal that can be done at this site. We have evaluated all the utilities to (the reviewer's) satisfaction to comply with all regulations. We were required to submit an O&M plan. We will have to provide an updated O&M plan prior to construction. The O&M plan will not be left to owners. Condo management will be in charge of the O&M plan that the Building Department will enforce. Commissioner: I'm pleased to see that something is moving forward (at this site). I'm more concerned with long term maintenance of the property and potential climate impacts to the property. Those new standards will be designed to handle the impacts of future storms. Brodsky: The site exceeds the base flood elevation. Commissioner: Subsurface infiltrations chamber needs a certified engineer to inspect it. While this will likely be a condo association, it doesn't give us on the record anyone to talk to if the system fails. I would request a special condition that they revised the O&M plan accordingly and be submitted to the Commission. Do you need a SWPPP? If a SWPPP is required we would request that the SWPPP be submitted. Hannon: We are below the threshold requirements. Commissioner: Question about the Existing stormwater

system. We are talking about inlets & pipes. Hannon: Existing utilities will be cut & capped. Larger utilities are to be installed and fully upgraded. The only existing infrastructure consists of some catch basins and manholes if they are secure and in good shape. Commissioner: Since another Commissioner brought up document from Mr. Chessia, would anyone like more time to review it? Another Commissioner: I would like to review it. Would you allow us to continue? Brodsky: I have no problem with that. There are several versions of the review. Please review the final document. Commissioner: Everyone should read the documents that include special conditions for site plan or lists the special conditions separately. Another Commissioner: where does the stormwater runoff get connect to and where does the runoff go? How do you know if (the existing stormwater system being tied into) will be big enough for the job you need done? Brodsky: We are upgrading an existing system. The discharge will be improved. The outlet is towards the beach Hannon: On the ledge area to the right (referring to the topographic plan), the (elevation) counters predict stormwater to shed towards the existing back side of building. We will catch all the runoff (even runoff that is not on our property) and all storm events. We'll have a Cultec system on the north side (blue rectangle). In a rain event, runoff is pitched towards the building, and down from the roof, through down spouts into the Cultec installation. We used the most conservative percolation rate. The rain water will percolate into the soil and piping into the Cultec. The overflow from downspouts will make their way back towards Nantasket Ave. There is a drainage pipe along the side of the building. There are more Cultec installs on the Nantasket Ave side that capture the runoff from the downspouts. There are catch basins and manhole infrastructure that ties into a DCR owned stormwater system.

Motion to continue until 05/09 by LS, 2nd by SC. Roll call. KJ-aye, LS-aye, PP-aye, SC-aye, TB-aye, DD-aye.

7:53 PM KJ leaves meeting

Certificates of Compliance

- a. 25 Gunrock Ave (SE35-1753)
Motion to issue a Certificate of Compliance by LS, 2nd by DD. Roll call: PP-aye, SC-aye, TB-aye, DD-aye, LS-aye.
- b. 933 Nantasket Ave (SE35-1751)
Motion to issue a Certificate of Compliance by LS 2nd by DD. Roll call: SC-aye, TB-aye, DD- abstain, LS-aye, PP-aye.

Permit Extension Requests

- a. 121 Bay Street (SE35-1368)
Motion to Extend Order of conditions for 1 year by LS, 2nd by DD. Roll Call: TB-aye, SC-aye, PP-aye, DD-aye.

Potential Violations

- a. 33 Malta Street
Non-permitted patio, alteration of adjacent dune.
Commissioner: We all saw the standstill agreement. I think that there are technical issues about compliance with it, the parties seem to agree to let it play out in court and think that we should let it play out in land court.
Another Commissioner: It only references the resources in the standstill agreement. If other resources come to our notification they would be under our jurisdiction. We are not issuing an order. It would be best if notification be made before the maintenance is done. I don't think that we can enforce it. Brodsky representing the Malta St 2015 Realty trust: I don't disagree with the Commissioners suggestion. This activity only happens at the beginning of the season it shouldn't happen again until next season and I will take it to the client.
Commissioner: Let this stand as is.

New business

- a. A DEP Superseding Order of Conditions was issued for 299 Nantasket Ave. essentially upholding the Commission's decision to issue an Order of Conditions. 299A Nantasket Ave (home located in rear of property) appealed the project.

Minutes:

Approval of Draft Minutes – April 11, 2023 as amended by LS 2nd by DD. Roll call: DD-aye , TB, SC, PP, LS, KJ-aye
Commission will be referred to as Commissioners in future minutes

8:10 PM Adjourn

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