

TOWN OF HULL
CONSERVATION COMMISSION
Meeting Minutes
July 25, 2023

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

Members Absent:

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

Staff Absent: none

AGENDA

1. Call to Order

- a. Review of Agenda, Overview of Hearings Procedure

2. Notices of Intent

- a. **49 Hampton Circle. Map36/Lot 163 (SE35-1787) Opening** of a Public Hearing on the **Notice of Intent** filed by **Craig Robinson** for work described as: **Repair existing sea wall. Abutter Notification: proof provided. Resource Areas: Coastal Beach** (storm damage protection, flood control, wildlife habitat); **Land Subject to Coastal Storm Flowage: AE 10’**. (Storm damage, pollution prevention, flood control). **Property has Chapter 91 license**
Representative: Craig Robinson
Abutters/Public:
Documents: Proposed plan

Robinson: The seawall has been in place since before 1984. There is a chapter 91 license. Wall had failed due to freeze thaw. We intend to use hand tools to remove veneer, remove materials across the yard, use shotcrete and install drainage holes. Commissioner: Will you need to remove soil to get below? Robinson: You may be correct. I’m not sure what is beneath the concrete veneer. Commissioner: It appears to be above max high water. Robinson: During normal tides the water doesn’t reach up to the wall. Commissioner: The plan shows the wall 3 feet off of mean high water line. Robinson: Plan shown. Commission: We don’t see any issues with this project.

Motion to issue Order of Conditions with the special conditions that work be done when tide is not at wall, done by hand, no machines on the beach, debris removed off the property and brought out of town by LS, 2nd by SC. Roll call: KJ-aye, LS-aye, SC-aye, PP-aye, TB-aye, DD-aye.

- b. **125 Atlantic Ave. Map 53/Lot 018(SE35-1786) Opening** of a Public Hearing on the **Notice of Intent** filed by **Stephen & Doreen Smith** for work described as: **Raze & rebuild single family home. 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, pollution prevention, flood control).
Representative: none
Abutters/Public: none
Documents: none

Motion to Continue until 8/15 by LS, 2nd by SC. Roll call: LS-aye, PP-aye, SC-aye, KJ-aye, TB-aye, DD-aye.

- c. **36 Ocean Ave. Map 3/ Lot 47 (SE35-1782) Continuation** of a Public Hearing on the **Notice of Intent** filed by **James Russell** for work described as: **After the fact gravel Driveway Abutter Notification: proof provided. 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, pollution prevention, flood

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control). **Buffer to Salt marsh.**

Representative: James Russell

Abutters/Public: none

Documents: storm video, photos, and site plan.

Russell: No changes from the last meeting. Commissioner: The stone driveway may be on the neighbor's property. IM: I'm not sure if the property line is clear. It is possible that the gravel driveway may be on the adjacent property. Another Commissioner: There has been some movement of the rock and some drainage in the back. Commissioner: I think that we should describe the resources and the performance standards for each. The resource area is Barrier Beach, Coastal Dune, & Land Subject to Coastal Storm Flowage. I would generally agree that this is a barrier beach because on one side you have the Atlantic Ocean and on the other side you have a salt marsh. We reviewed DEP# SE354-1634, in August of 2021 for 34 Ocean Ave and we did not regulate the area as a barrier beach. Likewise with DEP# SE35-1698 in July of 2022 we did not regulate the area as a Barrier Beach, and that was the sewer replacement project across from 36 Ocean Ave. Going forward, we should have a clear designation for this area. 310 CMR 10.28 Coastal dunes, the impact area was 156 ft² and that is the same impact to LSCSF. It seems like the real concern is the impact to the salt marsh and not the work on the barrier beach. This project would meet the performance standards for a coastal dune. This is a previously developed, now degraded dune. There was minor vegetation in the area; modification doesn't increase the potential downgrading of the dune. If we're concerned with the landward movement of the gravel, or the mobilization of gravel, that shows that there is still landward movement possible. There is no priority habitats species in this location. It does meet the performance standards for a coastal dune and for barrier beach. LSCSF, doesn't prevent flood control. The Salt marsh, the performance standard for a salt marsh is (310 CMR)10.32 3-6. A proposed project in a salt marsh, on lands within 100 feet of a salt marsh, or in a body of water adjacent to a salt marsh shall not destroy any portion of the salt marsh and shall not have an adverse effect on the productivity of that salt marsh. Alterations in growth, distribution, and composition of salt marsh vegetation shall be considered in evaluating adverse effects on productivity. 310 CMR 10.32(3) shall not be construed to prohibit the harvesting of salt hay.(4) Notwithstanding the provisions of 310 CMR 10.32(3), a small project within a salt marsh, such as an elevated walkway or other structure which has no adverse effects other than blocking sunlight from the underlying vegetation for a portion of each day, may be permitted if such a project complies with all other applicable requirements of 310 CMR 10.21 through 10.37.(5) Notwithstanding the provisions of 310 CMR 10.32(3), a project which will restore or rehabilitate a salt marsh, or create a salt marsh, may be permitted in accordance with 310 CMR 10.11 through 10.14, 10.24(8), and/or 10.53(4).(6) Notwithstanding the provisions of 310 CMR 10.32(3) through (5), no project may be permitted which will have any adverse effect on specified habitat sites of Rare Species, as identified by procedures established under 310 CMR 10.3. To date, the placement of the gravel is not in the salt marsh. There is some minor degree of migration. The question is does it have the potential for future movement? There are existing gravel driveways that are adjacent to the same salt marsh. Is this driveway more of an issue than the surrounding gravel driveways in the neighborhood? In order to meet the performance standards for coastal dunes and barrier beaches sediment must still be able to migrate landward. In this case, that proves to be contradictory to the request of the Commission. If Commissioners feel that this should be removed and restored, what is the goal of restoring to the existing condition of cobble, gravel area with deteriorating asphalt? If the Commission feels that the newly deposited gravel is a threat to the salt marsh, wouldn't the pervious material be the same type of threat? There are some simple mitigation methods like planting native vegetation. The installment of larger cobble could be beneficial in hopes to provide stabilization at the end of the driveway to protect the down gradient resource areas. I think that this project is approvable with some modifications to the plan. Another Commissioner: Are you aware that there is berm across the street that prevents the water from going into other driveways? Commissioner: There would still be movement. Commissioner: Water comes through here and between these two houses. Commissioner: The water does travel to the right. Another Commissioner: The other driveways don't go all the way back to the marsh. Commissioner: I agree that there needs to be a modification to the plan. I believe that we as a Commission need to be consistent. Commissioner: The location of the property faces a higher velocity of water, which isn't happening at 18 Bay View; which was permitted for a gravel driveway adjacent to the same salt

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Comment [KC1]: Was this cited word-for-word in the hearing, if not – not needed in minutes. Check recording...

Comment [KC2]: ?

Comment [DVD3]: I believe this is referring to some commissioners expressing a desire to have the gravel removed.

marsh. Commissioner: There is a higher volume of water at this property, but is what was there better for the salt marsh? Commissioner: This is not natural gravel, this is crushed stone. It will damage the salt marsh. Natural material should be allowed to migrate. Commissioner: Natural sediments located on a barrier beach and coastal dunes are supposed to be able to migrate. Commissioner: What would be a better, more natural approach? Another Commissioner: We aren't approving maintenance or the perpetual refilling of the stone. Commissioner: (new fill of 8-10 inches (was placed). Commissioner: There needs to be either cobble or riprap at the end, or vegetation. I think that we could also ask for some of the driveway to be removed. Commissioner: Peel it back from the salt marsh, and add a revetment, the water might rise, and might go into the flow vents. Commissioner: A revetment is much too big, a small wall to create an edge. Commissioner: Is that preventing things from going into the marsh? We can't accommodate both performance requirements for the barrier beach and the salt marsh. Another Commissioner: I don't think that it needs to be that big. As it is, I don't see a problem with a small cobble block to contain the stone and reducing the size. Another Commissioner: Defining the driveway and plantings would be something that I would hope to see. Commissioner: In the photo, there is a drop from the stone to the alley way beside the neighbors. Currently, the area is directing water down the alleyway and against the neighbor's house. Commissioner: The driveway should be pitched away from both homes. Commissioner: All the other driveways empty on to a grassy buffer zone. All the others don't have stormwater run-off over from the seawall. This wasn't designed. Rocks were just dumped. If given the option the Commission would have said that it was too long, and needs a grassy area. There is already a runoff area. The area needs to be regraded, edging put in, and a buffer zone between the driveway and the salt marsh. Commissioner: The stone is probably on the neighbor's property. Commissioner: Storm water aggressively floods this area. CK: I think the function of the area is as an over wash area. If there was a storm event it would wash the stone completely out. It is a great idea to pull it back. I would advocate for a hard surface. The over wash would be allowed to flow through and it would be easy to clean up. This is a corridor for the water entering into the marsh. A driveway there might be permissible. Commissioner: Is there a concern that the hardscape would cause the water to accelerate and cause further erosion in the marsh? I would like to see the driveway reduced in size and plantings put in. CK: There is a reason why there aren't plants there. I think that it might be hard to force planting there. Some greenscape like a lawn might work. Commissioner: I've seen grid blocks with bushes growing through them. Pavers would work well here. **It is not up to us to design it.** Russell: I'm not following Sam's proposal. I understand reducing the size and the planting. We have phragmites that grows behind the house and they are a big killer of salt marshes. I don't think that they should be our problem. Another Commissioner: Regardless, you still need a plan for the work. Russell: Unfortunately, the contractor gave me wrong information. Commissioner: We can vote on the project as is, but we can't redesign the project with special conditions. The applicant can ask for a continuation and have a plan done with a boundary line (delineated) and have it meet our guidelines. Russell: I would like a continuation. Commissioner: Where is the neighbor's property line, (measures for) protection for the neighbor (i.e. border or buffer), (and the driveway) needs to be smaller. CK: Would the Commission like the (non permitted) material to be removed? Commissioner: I think that the material should be removed. Another Commissioner: The rain storms moved the hay bales. Commissioner: Are you willing to remove all the crushed stone? Russell: I don't know, I wasn't prepared. Commissioner: Can we ask the applicant that if there is a storm event please rake the stone? Another Commissioner: Please provide a plan before the site visits. Russell: Did DPW come and look at the berm? Commissioner: We will work on that.

Motion to continue until 8/15 by LS, 2nd by SC. Roll Call: PP-aye, SC-aye, TB-aye, DD-aye, KJ-aye, LS-aye.

- d. **51 Harborview Rd. 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
Representative: none

Abutters/Public: none

Documents: none

IM: Engineers had 2 contractors come to the site, 1 contractor proposed a permanent drainage system to change the pitch of the patio and directing drainage towards the street, a second suggestion was to install subsurface cache and to divert water under the patio. IM: No current mitigation measures in place. Commissioner: IM: They intend to implement mitigation measures.

Motion to continue until 8/15 by LS, 2nd by SC. Roll call: SC-aye, TB-aye, DD-aye, KJ-aye, LS aye, PP-aye.

Comment [DVD4]: Are we missing a comment from a commissioner here, or is that or IM a typo?

3. Request for Determination of Applicability

94 Salisbury Street Map 45/Lot 105 Opening of a Public Hearing on the **Request for Determination** filed by **Sandra Butler** for work described as: **Install footings. Abutter Notification: proof not required. Resource Areas: Buffer to ACEC**

Representative: Sandra Butler

Abutters/Public: none

Documents: Proposed Plan

IM: The Commission wasn't sure which deck was being extended. Butler: It is the upper deck. I'm requesting footings further away from the bank. We're demolishing the deck and pool. The footings are further away from the bank than the existing structures. Commissioner: Should it be an NOI? Commissioner: I don't see why. It's significantly away. Commissioner: It's in the buffer zone of the coastal bank. IM: It is within the 100 foot buffer. Another Commissioner: It is out of the coastal bank. Commissioner: We have reviewed projects in the past where applicants have proposed extending existing structures within the buffer. I think that we're more concerned when the banks are steeper. Another Commissioner: I'm comfortable with an NOI. IM: This property has a lot of ledge. I feel that it poses much less of an impact to the coastal bank. Commissioner: The NOI trigger is the coastal bank. Is it inside or outside of a coastal bank? Another Commissioner: RDAs can be filed for the buffer to a coastal bank. Commissioner: It is outside of the coastal bank. Although, it's in the buffer zone. Butler: The pool will be removed. All footings will be pushed back further away from the top of the coastal bank. Another Commissioner: You are doing demolition in the buffer zone to the coastal bank. Commissioner: Do you have a contractor? We could continue and touch base with the contractor. Butler (refers to annotated Proposed Plan): I tried to overlay the drawing on the survey. Another Commissioner: Would demolition of the deck and pool trigger an NOI? Commissioner: Possibly. Butler: The pool and the deck are being removed by hand. The hot tub area of the deck will be enclosed. Commissioner: Demo work will be done in the buffer zone. CK: A 10 foot buffer (to the top of the coastal bank) is marked on the survey; 100 foot buffer zone to the Coastal Bank is in the regulations.

Motion to issue a positive determination by LS, 2nd by DD. Roll Call-TB-aye, DD-aye, LS-aye, PP-aye, SC-aye, KJ-aye.

4. Violations

- a. 175 Manomet Ave- IM: Office received a report about resident removing vegetation on the railroad bed and installing a paver patio. We issued a letter of non compliance. The area is in the process of restoration.
- b. 126 Newport Rd., adjacent lot – Issued a letter of non compliance. Owner is going to submit an NOI. Commissioner: They paved the driveway. CK: The homeowner stated they spoke to the clerk stating the driveway was a repair. There was a previous asphalt driveway that seemed very old.
- c. 66 Clifton Ave- No discussion. Report of violation. No issues observed. Potentially wrong address given.

5. New Business & Inquiries

- a. Corner of M St and Cadish Ave. Sea wall – Seawall is in disrepair. There is a sink hole. DPW is aware. CK: This is on the seawall master list. We have communicated to the neighbors and DPW.

b. 97 Bay Street DEP SOOC. Building is falling into the tidelands. Only a Commission issue if it damages the resource area. CK: This a building department issue. There is debris on the bank. Department will follow up with Building & Health Department

c. 3 Marginal road. Report of violation (non-permitted driveway). No signs of a new driveway.

6. Minutes

a. Motion to approve Minutes for July 11, 2023 as amended by LS, 2nd by SC. Roll call: DD-aye, KJ-aye, LS-aye, PP-aye, SC-aye, TB-aye,

7. Motion to **Adjourn (time?)** by LS, 2nd by DD. Roll call: PP-aye, LS-aye, KJ-aye, DD-aye, TB-aye, SC-aye.