



HULL CONSERVATION COMMISSION

253 Atlantic Avenue, 2nd floor
Hull, MA 02045

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TUESDAY, April 28, 2020
(held remotely via GoToMeeting)

Members Present: Paul Paquin, Sean Bannen, Paul Epstein, Tammy Best, Lou Sorgi, Jennifer Stone
Members Absent: None
Staff Present: Chris Krahforst, Conservation Administrator, Sarah Clarren, Assistant Conservation Administrator
Staff Absent: None
Minutes: Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below rollcall **vote** of 6-0;

It was **voted** to: Approve the Minutes of April 14, 2020 as amended.

P. Paquin – aye
T. Best – aye
J. Stone – aye
S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye

6:00 Call to order

6:05 **55 D St., Map 17/Lot 094. Opening** of a Public Hearing on the **Request for Determination of Applicability** filed by **Leslie Stearns** the for work described as **install 8’x10’ shed on property as shown on plans**

Representatives: David Stearns

Abutters/Others: No one spoke

Documents: “Existing and Proposed Conditions Plan [annotated]” – Nantasket Survey Engineering, LLC – 7/12/16, last rev. 8/4/16

D. Stearns introduced the project as described above. A Commissioner asked about the pine tree on site and if it would be removed, to which D. Stearns said no.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 4-0;

It was **voted** to:

Close the Public Hearing and **issue** a Negative Determination of Applicability.

Best – aye
Sorgi – aye
Epstein – aye
Paquin – aye

6:10 **66 Manomet Ave., Map 25/Lot 014. Opening** of a Public Hearing on the **Request for Determination of Applicability** filed by **Todd Sandler** for work described as **replace asphalt driveway with same.**

Representatives: Todd Sandler

Abutters/Others: No one spoke

Documents: “Proposed Driveway Work” – n.d.

T. Sandler introduced the proposed project as described above. A Commissioner asked if the driveway would be the same size, to which T. Sandler said yes. He added that the driveway would be entirely removed and then replaced. The Commission noted that they would prefer permeable pavers, but because it is pre-existing, it is permissible. T. Sandler said that they would prefer permeable pavers, if it was more affordable.

A Commissioner noted that some of the work appears to be on the abutting property and relayed that the Commission cannot approve work on an abutting property. T. Sandler said that he will get a letter to the Commission from the neighbor regarding the work. The Commission said the Determination would not be issued until the letter is received by the Conservation Department, to which T. Sandler agreed.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 4-0;

It was **voted** to:

Close the Public Hearing and **issue** a Negative Determination of Applicability.

Best – aye
Sorgi – aye
Epstein – aye
Paquin – aye

S. Bannen arrived

6:17 325 Nantasket Ave and 5 Hull Shore Drive. Map 33/Lots 010 and 066. Opening of a Public Hearing on the **Request for Determination of Applicability** filed by the **Hull Redevelopment Authority** for work described as **install 4 post and rail fences (200 linear ft., 160 linear ft., 195 liner ft., and 50 linear ft.) as shown on plans.**

Representatives: No one present

Abutters/Others: No one spoke

Documents: "Map" – n.d.

C. Krahforst described the proposed project on behalf of the HRA. He relayed that the HRA owns these two lots and they are proposing post and rail fences which will not re-direct water.

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

It was **voted** to:

Close the Public Hearing and **issue** a Negative Determination of Applicability.

Sorgi – aye

Epstein – aye

Paquin –aye

Best – aye

Bannen – aye

6:21 187 Atlantic Ave., Map 51/Lot 007 (SE35-1466) Opening of a Public Hearing to **Amend** the **Notice of Intent** filed by **Richard Powers** for work described as **change location of proposed rear stairs, install generator platform.**

C. Krahforst said that the abutter notification was not done in the required timeframe and therefore the opening of the hearing needs to be moved to the next meeting. No vote is needed.

6:25 112 Samoset Ave., Map 23/Lot 105 (SE35-1534) Opening of a Public Hearing of the **Notice of Intent** filed by **Joshua Werner** for work described as **proposed addition and deck to a single-family house.**

Representatives: David Ray (Surveyor); Josh Werner

Abutters/Others: no one spoke

Documents: "Existing and Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – 11/27/2019

"Foundation Plan" – Rivermoor Engineering, LLC – 3/25/2020, last rev. 3/30/2020

D. Ray introduced the proposed project which includes a small addition to rear of home. He said it will be placed on a FEMA compliant foundation with no basement and there will be a small deck off the rear. D. Ray then added that the project has received approval from the ZBA.

A Commissioner noted that the left side of the property appears to be higher than the abutter and that the outdoor shower is on that side; they expressed concern over how the shower would drain. D. Ray said that no changes to drainage patterns are proposed and that the outdoor shower will tap into the house's drain system.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 6-0;

It was **voted** to:

Close the Public Hearing and **approve** the Order of Conditions.

Epstein - aye

Paquin - aye

Best - aye

Bannen - aye

Sorgi - aye

6:30 21 E St., Map 16/Lot 087. (SE35-15XX) Opening of a Public Hearing of the **Notice of Intent** filed by **Lawrence Trubia** for work described as **construct rear addition (10'x16'), rear deck, and outdoor shower.**

Representatives: Lisa Day Hill (owner); Lawrence Trubia

Abutters/Others: No one spoke

Documents: "Site Plan (Proposed)" – Lombardo – 4/20

"Existing Conditions" – Lombardo – 2/20

"Floor Plan and Elevations" – Lombardo – 2/20

"Plans, Sections & Details" – Lombardo – 2/20

The Commission noted that no DEP file number has been issued for the project, so the hearing cannot be closed.

L. Trubia introduced the proposed project as described above. He added that there will be 3 footings to hold up the addition, two footings to hold up the deck and a stair slab for the stairs. A Commissioner asked where the outdoor shower is proposed to which L. Trubia said it is shown on the plan. The Commission asked how the shower would drain, to which L. Trubia said that it would be piped into the house drain.

One special condition added as follows:

- 1) The shower shall be hooked up to the home's drainage system.

- P. Epstein made and L. Sorgi seconded a motion to close and issue an Order of Conditions
 - Paquin - aye
 - Best – aye
 - Bannen - aye
 - Sorgi – aye
 - Epstein – aye

C. Krahforst noted that the hearing cannot be closed as no file number has been issued. He will inform the applicant.

- Upon a **motion** by P. Epstein **2nd** by S. Bannen and the below roll call **vote** of 6-0; It was **voted** to:

Continue the Public Hearing to May 12, 2020 at a time TBD.

- Paquin - aye
- Best – aye
- Bannen - aye
- Sorgi – aye
- Epstein – aye

6:35 61 Harborview Rd Map 59/Lot 033. (SE35-1535) Opening of a Public Hearing of the Notice of Intent filed by Kirk Daffner for work described as proposed coastal bank stairs, platforms, & bank vegetation.

Representatives: Kirk Daffner; David Ray (surveyor)

Abutters/Others: No one spoke

Documents: "Coastal Resources Memo" – ECR – 4/24/2020

"Rear Stairs Design (2pgs)" – Paul Bonarrigo – 1/7/2020

"Existing and Proposed Conditions Plan with Proposed Improvements" – Nantasket Survey Engineering, LLC – 4/8.2020

D. Ray presented the proposed project as described above. He said that the project would involve stairs which would provide access to the beach over the lowest elevation of the bank. He added that the stairs will be elevated 3' off the ground and would allow sunlight to reach the vegetation below. D. Ray then noted that the project has a vegetation program with it. Disturbed areas will be immediately re-vegetated and an additional phased planting program is proposed which will cover the whole coastal bank. D. Ray said that the last portion of stairs will be removeable and will be removed during storm events and over winter. A Commissioner asked where the removable stairs will be placed when they are removed, to which D. Ray said they will be placed on a pivoting access.

A Commissioner noted there is a significant amount of invasive species onsite and asked how far down the coastal bank would be re-vegetated. D. Ray said that re-vegetation won't all be done at once and added that the big invasive plants, especially around stairs, will be removed and replaced first. The following planting season, the remainder will be done. C. Krahforst expressed concern that too much vegetation removal will de-stabilize the coastal bank and a Commissioner suggested that in between each stage of the coastal bank stabilization effort, the Conservation Administrator, or appointee, should review prior to continuing on to the next planting phase.

A Commissioner noted that there is a lot of soil currently exposed and suggested that the area undergo plantings and invasive species removal prior to the clearing and placement of stairs. D. Ray said that the vegetation is less robust because we are just getting out of winter.

D. Ray said that although the plans show a cement block at the end of the stairs on the beach, it will not be installed; nothing will be placed permanently on the beach. A Commissioner asked what the steps will be made out of, to which D. Ray said it would be composite materials that would be porous so sunlight comes through.

A Commissioner noted that there is a nearby access point and that installing stairs at this location may be unnecessary and may impact the coastal bank.

C. Krahforst noted that the plans mention a botanist and asked if one has been selected and added if the proposed plantings would be enough to stabilize the coastal bank. D. Ray responded that ECR developed the list of the proposed plantings.

A Commissioner noted that the removeable stairs appear to be, in part, on town-owned land and therefore, prior to construction, the applicant must obtain a license from the Board of Selectmen for placement of that portion of stairs on town land. A new updated plan that shows the absence of the concrete block at the base of the stairs shown in the original plan submittal is required prior to the issuance of the Order of Conditions.

Four (4) Special Conditions were added as follows:

- 1) The steps of the stairs shall be made of material that allows sunlight to penetrate to the vegetation below to minimize any potential negative shading impacts.

- 2) The Conservation Department shall be contacted for reviewing the project's progress after the stairs have been installed and at the end of each planting phase.
 - 3) The last section of stairs covering the lower 15' change in elevation shall be removed seasonally (October 1st – March 15th) and prior to an impending moderate or greater storm event.
 - 4) The applicant shall obtain a license from the town for placement of any portion of the stairs on Town-owned land.
- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 6-0;
It was **voted** to:

Close the Public Hearing and **approve** the Order of Conditions.

Best, aye
Bannen, aye
Sorgi, aye
Epstein, aye
Paquin, aye

J. Stone arrived

6:58 2 A St., Map 18/Lot 150. (SE35-1477). Opening of a Public Hearing to **Amend the Order of Conditions** filed by **SHM Sunset Bay Marina** for work described as **add 32 additional slips, increase floating dock area, and add 8 additional pilings for approved attenuators.**

Representatives: Adam Brodsky (Legal Representation), David Ray (surveyor)

Abutters/Others: Terri Petriella; Leo McDonough; Ken Frammer; Jodi Elliott

Documents: "Sunset Bay Marina Existing Conditions (Sheet 1 of 6)" – Nantasket Survey Engineering, LLC – 2/11/2020

"Proposed Site Conditions (Sheets 2-5 of 6)" – Nantasket Survey Engineering, LLC – 2/11/2020

"Sunset Bay Marina Alterations (Sheet 6 of 6)"

"Sunset Bay Marina Alterations (Sheets 1-4 of 4)" – Nantasket Survey Engineering, LLC – 2/11/2020

A. Brodsky said that he is representing Folsom/Sunset Bay Marina LLC and the Manager Bob Folsom, which is the previous owner. The new owner is SHM Sunset Bay Marina. The project before the Commission is a housekeeping permit. He relayed that last year the property was before the Commission for the new wave attenuators, finger piers, and a public walkway. The project before the Commission is to amend last years permit to address items that came up when the project went before state permitting agencies. The regulators have asked to replace the bottom anchored wave attenuators that were approved by the Commission with pile-driven attenuators to reduce scour. He added that the Commission has already approved four bottom-anchored wave attenuators and 10 pile-held wave attenuators; the proposed amendment would make all the previously approved wave attenuators piled-held/driven.

A. Brodsky then added that while the project has undergone review through federal and state agencies, and through a review of the as-built plans it's became apparent that what is and has been in the water for years is different from what has been permitted; they want to make the current conditions conform to the permit. A. Brodsky said that the last permit approved by the Commission was for 149 slips, but what has been in the water for years is 181 slips.

A. Brodsky noted that the Commission issued an Order of Conditions to replace the gas dock, with a new configuration, which has not or will not be done. When the marina was reconstructed in 2008 or so, some of the floats were both wider and some additional fingers were added. In all told, the changes to the water sheet is 41,217 sq feet. He reiterated that no new slips would be added; the proposed amendment would just permit what has been on the water for over a decade and would change how the previously permitted wave attenuators would be affixed to the ocean floor. He added that they have submitted a request to amend the project before the Planning Board and that hearing is scheduled for 5/13; all public discussion, such as parking, is not relevant to the Wetlands Protection Act and should therefore be directed to the Planning Board. Brodsky noted that no eelgrass has been observed onsite and therefore no changes to vegetation is proposed. He then added that the project is in a resource area containing shellfish, but shellfish cannot be harvested and the locations that have previously been approved for the work does not contain shellfish; if they find shellfish when the wave attenuators are being installed, an alternative location will be proposed. He concluded that the proposed work complies with all standards required by the Wetlands Protection Act. D. Ray clarified that there are actually 5 wave attenuators that were approved to be bottom-anchored and 9 were pile driven. D. Ray added that the project has not yet received a Ch. 91 License and during that process, CZM recommended that all wave attenuators be pile driven.

A Commissioner noted that the wave attenuators are going across the mooring field, to which D. Ray said yes and added that any mooring that is within 100' of a wave attenuator will be given up. A Commissioner expressed concern that what is onsite is not what has been permitted. D. Ray said that the original marina design was different and that 19 slips were because of 10 finger piers and the rest could have always existed, had they been appropriately counted. A Commissioner asked if all fuel traffic would come from the south side, to which D. Ray said yes.

The Commission opened the hearing to the public. J. Elliott expressed concern over parking and the growth of the marina, to which A. Brodsky said those concerns do not fall under the Commission's purview and those should be directed to the Planning Board. She also expressed confusion and said that she thought the marina would be installing 32 new slips, but

it sounds like those slips are already installed. T. Petriella expressed confusion; at a previous meeting she was told that the wave attenuators would not encroach on the town mooring field and now the new pilings would be encroaching on the town mooring field. D. Ray responded by stating that the mooring field they are referring to is part of the marina and was approved back in 2007; he reiterated that it is not a town mooring field and that the locations of the wave attenuators have already been approved. T. Petriella asked if there would be any infringement on the fairway of the town's mooring field, to which A. Brodsky noted that that the location of the wave attenuators have already been permitted and is not proposed to change; the amendment only speaks to changing how they are anchored. T. Petriella then expressed concern over the shellfish beds and even though they can't be harvested, they are still wildlife. A. Brodsky said that the shellfish appear in state mapping data and that they do not believe that the location of the piles will affect any shellfish. He added that if they do find shellfish, they will agree to relocate the piles. T. Petriella expressed concern that there is a lot of talk about not changing the shoreline, but something that changes the location of waves is allowed. A Commissioner noted that the location of the waves is not changing; the purpose of a wave attenuator is to dissipate wave energy. C. Krahforst added that he doesn't see the project causing any end effects because they are designed to dissipate wave energy. A. Brodsky reiterated that the wave attenuator locations aren't changing, they are just proposing changing how they are anchored, per a state agency's recommendations. C. Krahforst asked if the applicant or their representative submitted the amendment request to the Division of Marine Fisheries and Natural Heritage for their input on the amendment, to which A. Brodsky said that he doesn't have the complete file, but believes there is a no-take letter that was included by the agencies with the original filing. D. Ray said that the project is obtaining all required licenses, including an ENF and they have submitted comments and they would be happy to forward comments.

Ken Framer asked if, regarding the wave attenuators, what is in the water now is what will be in the future. D. Ray responded by stating that there are only 5 wave attenuators, but 14 have already been approved and will be installed in the future. K. Framer then asked where the other wave attenuators would be added, to which D. Ray said that two would go to the north and the rest would be to the south. K. Framer then asked about where the 32 slips would be added, to which D. Ray said that they are not actually adding any additional finger piers; there are just seeking a license for what is onsite in regard to finger piers. A Commissioner asked how many years boats have been parking at these unpermitted slips, to which D. Ray said probably since 2008. K. Framer asked how many new finger piers would be installed, to which D. Ray said no new finger piers would be installed, but they are seeking a permit for 10 finger piers that are currently onsite which have not been permitted. K. Framer then asked if the project has been approved by DEP, to which D. Ray said that it is going before DEP for a Ch. 91, but it first needs approval from the Commission and the Planning Board.

C. Krahforst said that he found a letter in the original request for an Order of Conditions from DMF dated 5/23/2015 which indicates that if an amendment is proposed, comments should be re-sought from DMF and Natural Heritage. He noted that if the applicant has recent comments regarding the amendment from the state agencies that they should be forwarded to the Commission.

L. McDonough said that from what he's understanding, the marina has been in violation of permit for number of years and now that they are trying to be compliant, to which Paquin said that is one way of looking at it. A. Brodsky said that this is not unusual for a marina as things move over the years. L. McDonough said that what is onsite should not be expanded and that it should be reduced to what has been permitted. He then expressed concern over the placement of the wave attenuators and asked how long they are, to which A. Brodsky said that the amendment is not seeking to change the number or location of the wave attenuators; just the way they are anchored. A. Brodsky reiterated that the wave attenuators have already been permitted. L. McDonough then expressed concern that the boating fairway will be reduced, to which the Commission said that is not within their purview. L. McDonough then said that driving piles vs. bottom anchors will change the way the project looks, to which the Commission said that visual appearance is outside of their purview.

C. Krahforst suggested that the hearing be continued as the amendment request needs to receive comments from DMF and Natural Heritage. He added that he found a letter from 2019 in which Natural Heritage said that they would need to review any changes to the project. A. Brodsky said that under an amendment request, procedures are not spelled out and that they are happy to comply with the requested information. A. Brodsky then asked if the Commission believes that the proposed changes are sufficient under an Amendment request or if they should submit a new Notice of Intent. The Commission noted that the process of an amendment and Notice of Intent is essentially the same and that it is alright to move forward with the amendment request and that the applicant must solicit comments from DMF and Natural Heritage.

R. Gould said that as he understands it, there is a request to amend the order of conditions. He expressed concern that the plans have changed without state agencies being notified. C. Krahforst said that comments were solicited with the 2019 original order; comments are needed specifically on the amendment.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 6-0;
It was **voted** to:

Continue the Public Hearing to May 12, 2020 at a time TBD and that the use of an amendment is permissible in this case.

Bannen – aye
Sorgi – aye

Epstein – aye
Stone – aye
Best – aye
Paquin – aye

7:51 125 Main St., Map 02/Lots 005 & 003. (SE35-1523) Continuation 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. The applicant requested a continuance to 05/12/2020 at a time TBD.

- P. Epstein made and L. Sorgi seconded a motion to continue the Public Hearing to May 12, 2020 at a time TBD.

Prior to voting on the motion, a Commissioner asked about the continuance request and about the court order which required that the structure be removed by April 1st, which has passed. Another Commissioner noted that due to Covid-19, court actions and trials have been delayed. C. Krahforst noted that the Court Order is independent from the Notice of Intent and that the Commission must proceed with the application at hand. A Commissioner asked what reasons were given for the continuance request, to which C. Krahforst said that they are working with the town on an agreement. R. Gould expressed concern over the number of continuances and nothing has been submitted for permitting. A. Brodsky said that they submitted a settlement proposal to the town, and they are waiting for a response from the town. A. Brodsky then noted that due to Covid-19, deadline of April 1 has been put on hold by the courts.

- Upon a **motion** by P. Epstein **2nd** by L. Sorgi and the below roll call **vote** of 6-0;
It was **voted** to:

Continue the Public Hearing to May 12, 2020 at a time TBD.

Stone – aye
Bannen – aye
Sorgi – aye
Epstein – aye
Best – aye
Paquin – aye

Certificate of Compliance Requests

None.

Continued and New Business

Signatory authorization – C. Krahforst said that Town Counsel has developed a form which would allow him to sign decisions on behalf of the Commission. He noted that the Commission would need to vote to authorize this permission. – P. Paquin **Motion**, L. Sorgi **2nd**, and the following roll call **vote** of 6-0;

1. Motion: To authorize Christian Krahforst, Hull Conservation Administrator, to physically sign Hull Conservation Commission documents on behalf of individual Hull Conservation Commission members.
2. Motion: That the Hull Conservation Commission recognizes, adopts and accepts the provisions of G.L. c. 110G, "The Uniform Electronic Transactions Act" authorizing the use of electronic signatures on documents.

Rollcall vote: Paquin – aye, Best – aye, Stone – aye, Bannen – aye, Sorgi – aye, Epstein – aye

Extend OoC, 121 Bay St (SE35-1368): P. Epstein **Motion**, L. Sorgi **2nd**, and the following roll call **vote** of 6-0; extend the Order for three years; Epstein – aye, Sorgi – aye, Bannen – aye, Stone – aye, Best – aye, Best – aye.

Louvres proposed for 353 Beach Ave: C. Krahforst relayed that the owners of 353 Beach Avenue would like to cover up their piles with louvres. He added that FEMA recommends that pilings are not enclosed, but if they are, any enclosure would need to be able to breakaway during flooding events. The Commission noted that such a change would be significant but before making a decision, a site visit should be done. The Commission also asked for more information about the proposed louvres as we weren't clear what was being suggested.46 Summit Ave: C. Krahforst relayed that he received an inquiry from a homeowner regarding the reconstruction of a home which is only a few feet within 100' of a coastal bank. The Commission said that an RDA should be filed.

15 Marginal Rd review: C. Krahforst asked if the Commission would consider reopening the hearing for 15 Marginal Road. Epstein moved, that in view of the request and agreement of the Applicant, to rescind the vote regarding 15 Marginal Road made on 14 April 2020 and further to restore the application to the hearing schedule, full public notice to be given for the next hearing date." L. Sorgi seconded the motion, which was approved by the following rollcall vote: P. Paquin – aye, S. Bannen – aye, P. Epstein – aye, J. Stone – aye, T. Best – aye, L. Sorgi – aye.

Violations and Compliance issues

None.

8:29 Upon a **motion** by P. Epstein and **2nd** by L. Sorgi and the below roll call **vote** of 6-0;

It was **voted** to: Adjourn.
P. Paquin – aye

T. Best – aye
J. Stone – aye
S. Bannen – aye
L. Sorgi – aye
P. Epstein – aye