



HULL CONSERVATION COMMISSION

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January 24, 2006

- Members Present:** Sheila Connor, Chair, John Meschino, Judie Hass, Jim Reineck, Frank Parker
- Members Not Present:** Sarah Das
- Staff Present:** Anne Herbst, Conservation Administrator
Ellen Barone, Clerk
- 7:36pm** Chair Connor called the meeting to order
- Agenda Approved:** Upon a **motion** by J. Hass and **2nd** by J. Reineck and a **vote** of 5/0/0;
It was voted to: **Approve** the Agenda for 1/24/2006
- Minutes:** Upon a **motion** by J. Hass and **2nd** by S. Connor and a **vote** of 5/0/0;
It was voted to: **Approve** the Minutes of January 10, 2006
- Bills:** **Approved and signed** by All.

7:45pm 49 Edgewater Road, Map 29/Lot 15 (NE35-935) Opening of a public hearing on the Notice of Intent filed by Adam Russo for work described as reconstruction of a retaining wall and added structural support for an existing deck.

Present:

Representative: David Ray, PLS

Owner: Adam Russo

Abutters/Others: P. Paquin

This Notice of Intent filing is the result of an enforcement order. Mr. Ray submitted plans indicating the reconstruction a retaining wall and showing posts that have been installed for support of an existing deck.

The Commission had previously conducted a site visit at which time had noticed that the deck posts were resting on rocks on the ground. Mr. Ray also noted this post on the plans to accompany the Notice of Intent. The Owner stated that this post was in existence when he bought the house. The Owner explained that this post was being used for support of the existing structure. The post was set on stones with no sono-tubes installed. The mean high water line was discussed. Mr. Ray explained that the post was set on stones and was above mean high water line. Paul Paquin stated that the stones were actually fill, taken previously from neighbors, and therefore the posts were extending to an area below mean high water. The Commission expressed concern about the structural integrity and safety of performance of the posts. The Owner stated that he had a structural engineer at the house that felt that this post was not an issue and that it was safe.

The issue before the Commission at this time is the reconstruction of the retaining wall. At this time the Commission feels that the wall is permissible. However, an additional concern is that one of the posts appears to be below mean high water.

The post in question is being used as a support measure for the porch due to the fact that an I Beam is deteriorating. The Owner will again contact the structural engineer to determine if the post in question can be removed.

- Upon a **motion** by J. Meschino and **2nd** by J. Hass and a **vote** of 5/0/0

It was voted to:

Continue the Public Hearing to 2/14/06, time to be determined.

8:20pm 98 Salisbury Street, Map 45/Lot 100 (NE35-932) Continuation of a public hearing on the notice of Intent filed by RJB Development Corp. for work described as the construction of a new single family dwelling including driveway and utilities.

Representative: R.T. Burwick, Robert Crawford, EET, Inc.

The plans before the Commission indicate a proposed house that is shown at the largest possible size that would be allowed on the lot. The location may be changed slightly depending upon the final design, however the home would still sit within the proposed boundaries. The Commission questions the delineation on plans of the coastal bank. The plans don't seem to align with anything visual when you are on site. Peter Rosen, a Coastal Geologist delineated the coast bank. It was agreed that this concern will not ultimately impact permitting of the project as currently designed.

Special attention will have to be given to erosion control issues. The Commission questioned whether blasting would be done on a large rock that is on the site. The Representatives stated that splitters would be used. The Commission noted that one corner of the building will have to be adjusted to allow for a ten foot buffer zone. The Representative questioned the Commission if they would allow the corner of the house to be cantilevered? The Commission feels that this could be suitable.

The Representative will comply with requested erosion control measures. If the location of the house is changed, the Commission would like the proposed house be moved away from the water side of the property. The Applicant will return for approval when final plans are available.

- Upon a **motion** by J. Hass and **2nd** by J. Meschino and a **vote** of 5/0/0

It was voted to:

Continue the Public Hearing to 2/28/06, time to be determined.

8:35pm 152 Samoset Avenue, Map 21/Lot 76 Opening of a public Hearing on the Request for Determination of Applicability filed by Lilia Chavez for work described as installation of 8 footings for an addition to the house.

Representative: Joe Redman

The Commission conducted a site visit on January 21, 2006. An existing addition at the back of the house will be removed and replaced. A stone patio under the existing addition will be removed. Eight sono-tubes will be installed for support of the addition.

A notation was made on the plans to indicate that the patio will be removed and that no impervious surface would be added in its place.

- Upon a **motion** by J. Meschino and **2nd** by J. Hass and a **vote** of 5/0/0;

It was voted to:

Close the Public Hearing, and **issue** a **negative** Determination of Applicability. The Determination of Applicability was **signed**.

8:38pm 35 Warfield Avenue, Map 24/Lot 70 (NE35-###) Opening of a public hearing on the Notice of Intent filed by Thomas Cibotti for work described as elevation of house to build a FEMA compliant foundation, reset house on new foundation.

Representative: David G. Ray, PLS

The home is presently above the required elevations however will be raised to allow construction of a FEMA compliant foundation. The home presently has a crawl space below the first floor. Mr. Ray presented plans of the project that included adding two dry wells for roof run-off.

The Commission conducted a site visit on January 21, 2006 at which time shingles that may contain asbestos were noticed on the ground around the home. A special condition will be added that any existing asbestos shingles that have already fallen from the home or any additional asbestos shingles that may be removed from the home during renovations will be removed in an environmentally safe manner.

- Upon a **motion** by J. Hass and **2nd** by J. Meschino and a **vote** of 5/0/0;
It was voted to:
Close the Public Hearing, **approve** the project and to **discuss** the Draft Order of Conditions. The Order of Conditions was **signed**.

8:50pm 670 Nantasket Avenue, Map 19/Lot 1 Opening of a public Hearing on the Request for Determination of Applicability filed by Tedeschi Food Shops for work described as a 563 sq. ft. addition on the westerly side of the building.

Owner: Paul Tedeschi
Representative: J. O'Leary, Merrill Associates

Mr. O'Leary presented plans for an addition to the existing building that would include construction of a foundation. The FEMA Flood map indicates that the proposed location of construction is divided with two different ratings. The plans provided show the dividing line on the left side as zone A3, and the right side as A0.

The Commission conducted a site visit on January 21, 2006. The applicant indicated that all of the proposed addition is above 10.0 elevation shown on the FEMA maps. However, the Commission noted that the actual flood level from the flood insurance study is 10.4. At this level the applicant calculated that 94.1 square feet of the foundation is within the A3 flood zone and that this would fill an estimated 6 cubic ft. of flood storage volume. The Commission suggested to the Owner that they could request a change to the FEMA Maps. Mr. O'Leary was hoping that the Commission would allow the work to be done without submitting a Notice of Intent, or a map change request, due to the minor amount of change in flood volume. The Commission maintains that construction of a foundation within the flood plain necessitates filing a Notice of Intent.

- Upon a **motion** by J. Hass and **2nd** by J. Meschino and a **vote** of 5/0/0;
It was voted to:
Close the Public Hearing, and **issue** a **Positive** Determination of Applicability. The Determination of Applicability was **signed**.

9:10pm 45 Salisbury Street, Map 45/Lot 199 (NE35-###) Opening of a public hearing on the Notice of Intent filed by Ferdinand Kiley III for work described as construction of a single family house.

Owner: Ferdinand Kiley
Abutter/Others: Barbara Kiley

Mr. Kiley presented plans. The construction will include a slab foundation. Permission has been granted by the various departments for bringing in utilities. The home will be a two story colonial.

The Commission conducted a site visit on January 21, 2006. Special attention must be paid to erosion control. A special condition will be added that states that the existing swale on the property will not be filled and that a grate must be placed over it for construction of the driveway.

§ Upon a **motion** by J. Meschino and **2nd** by J. Hass and a **vote** of 5/0/0;
It was voted to:

Close the Public Hearing, **approve** the project and to **discuss** the Draft Order of Conditions. The Order of Conditions was **signed**.

9:25 351 Beach Ave, Map 12, Lot 75 (NE35-###) Opening of a public hearing on the Notice of Intent filed by Daniel Lehan for work described as repair seawall, construct patio, reconstruct driveway, walkway and stairs.

Owner: Daniel Lehan
Representative: Paul Halkiotos
Abutters/Others: Carolyn Cohen, Lainie Sullivan, Tami Guiney, Kevin Bulman

The Notice of Intent has been filed as a result of an Enforcement Order. The Commission conducted a site visit on January 21, 2006. Mr. Halkiotos stated that the Lehan's performed work on the property last spring. A building permit was issued however no contact was made with the Conservation Commission for construction in resource areas that consist of a barrier beach, buffer to a coastal beach and in a velocity zone. Mr. Halkiotos presented the plans for the work that took place.

Mr. Halkiotos stated that prior to repairing the wall and constructing the patio that water would come over the wall and pond on the pervious surface of a sand and grass mix undermining the footings for the wall.

The problem that exists now is that complaints have been made that the new construction of patios, walkways and the driveway has changed the dissipation of water and after picking up velocity it flows at high speeds to neighboring properties. One abutter that has never experienced flooding in her home is fearful that her home will now flood. Additionally, roof drains have been positioned to allow water to flow off the patio. The walkway of one neighbor has been wet and muddy consistently since the construction. The pervious surfaces that were removed at the patio location previously absorbed a certain amount of the water that did go over the wall. Another abutter stated that since the construction even in smaller storms, she has noticed that water is flowing at a higher velocity however has not experienced flooding at this time.

The building permit that was obtained was noted repair of the seawall and the fence and nothing else. The plan presented of work that was completed indicates other work. Mr. Bulman stated that he did present the plan as shown today to the Building Department.

The Commission is concerned that this construction has affected the properties of neighbors and that the statutes state that it is illegal to shed water from one property to another. Water may have been shed prior to the construction but not at this strength.

Mr. Halkiotos spoke to the issues brought up by abutters stating that conclusions were being jumped to based on no scientific data that in the precondition that water that splashed over the seawall that was in disrepair would go into the gassy area and infiltrate into the ground. In the post condition, the design was that water that came over the wall and hit the patio and hit the foundation of the house would deflect straight back. The patio is pitched seaward. It is not pitched to the side so that the water will run into the abutting properties. It is pitched straight back towards the ocean; physics will show that water will hit the foundation and it will roll back. He stated that yes, some will deflect on the edges but that condition existed prior to this. The majority of the water that is hitting this patio is deflecting back and rolling toward the ocean. There is not a significant increase in the volume of water prior to construction. To mitigate the issue of roof run off, a dry well could be dug for the downspouts to drain into.

It was explained by the Commission that when water hits the front of the house, it has a tendency to roll around and increase in speed and not flow directly back toward the ocean. Mr. Halkiotos brought up other patios in the neighborhood that he feels have the same effect and questioned the permitting of them by the Commission. No facts were presented that the Commission had in fact issued permits for those patios. He would be interested in researching when they were constructed and what prior approval was given by the Commission.

Mr. Lehan feels that he has cooperated with the neighbors and brought up an issue related to a fence.

The issue at this time for the Commission is to determine what work included on the plan would have been permissible under the Wetlands Protect Act.

Mr. Halkiotos requested that the hearing be continued to February 28, 2006. He feels that it looks at this time as though they may need some legal counsel and would need time to do that.

An abutter was concerned about not being able to be present at the next hearing. Mr. Lehan will attempt to meet with the neighbors to try to solve their issues. Attempts will also be made to determine if there is a way to make changes on site to solve the issues. A safety issue was brought up by an abutter pertaining to the gate on the fence opening out. The fence should open in toward the property. The Commission noted that this is a Building Department concern.

An updated as-built was submitted to the Commission.

- Upon a **motion** by J. Meschino and **2nd** by J. Hass and a **vote** of 5/0/0;
It was voted to:
Continue the Public Hearing to February 28, 2006 at a time to be determined.

16 Manomet discussion of Enforcement Order - postponed to February 14, 2006

9 Moreland Rd. discussion of Enforcement Order - postponed to February 14, 2006

11 Moreland Rd. discussion of Notice of Violation - postponed to February 14, 2006

The Commission has received a letter of resignation from Joan McAuliffe. F. Parker suggested that the Commission write a thank you letter to Ms. McAuliffe for her service. S. Connor stated that she already wrote a note to Ms. McAuliffe

Upon a **motion** by F. Parker requesting that the Commission write a letter to Joan, **2nd** by J. Hass and a **vote** of 1/4/0 , it was **voted** that a letter will not be sent.

S. Connor advised the Commission that Hull has received notice that it will be moved from the jurisdiction of the Northeast Region of DEP to the jurisdiction of the Southeast Region of DEP.

MACC spring meeting information is in the folders. Commissioners should review and determine if they wish to attend.

S. Connor commended the Commission for all of the hard work done by the Commissioners and past Commissioners for the dune repair project.

The letters will be mailed on Wednesday to all abutters of the dune. J. Hass was concerned that not all abutters are in town to receive their mail and not all of it is forwarded. J. Hass would like a line added to acknowledge that some homeowners are summer residents only. A. Herbst explained that the letters have already been written and signed, however the information will be added to the fact sheet to be included with the letters.

Upon a **motion** by S. Connor and **2nd** by J. Meschino and a **vote** of 4/1/0, it was **voted** to mail approximately 150 letters about the dune repair project to the abutters. J. Hass opposed.

J. Hass would like the following statement included in the record: "While I applaud the intent of the letter, I take exception to the fact that the Town owns all of the 50 foot right of way that they claim they own and therefore I can't support the language in the letter that refers to the Town ownership of the dunes."

J. Hass also related to the Commission that she has received an email questioning why the Commission does not give instruction to the Owners about how to build or repair their openings. S. Connor explained that that would be covered in the legal issues. Owners must submit proof of ownership. Owners would then have to file a NOI. The Commission will not be involved in determining ownership of the dune.

Anne Herbst questioned how the dune grass planting was done in the past. – The Commission participated as individuals along with other committees and residents and not as "The Commission".

10:35pm Upon a **motion** by J. Meschino to adjourn and **2nd** by S. Connor and a **vote** of 5/0/0 the meeting was **adjourned**.

Note: Citizen, Paul Paquin was present for entire meeting