



HULL CONSERVATION COMMISSION

253 Atlantic Avenue, 2nd floor
Hull, MA 02045

Phone: 781-925-8102

Fax: 781-925-8509

November 14, 2006

Members Present: Sheila Connor, Chair, Sarah Das, Vice Chair, John Meschino, Judie Hass, Jim Reineck, Frank Parker, Paul Paquin

Members Not Present:

Staff Present: Anne Herbst, Conservation Administrator
Ellen Barone, Clerk

7:35pm Chair Connor called the meeting to order

Agenda Approved: Upon a **motion** by J. Hass and 2nd by J. Meschino and a **vote** of 6/0/0;
It was voted to: **Approve** the Agenda for November 14, 2006 with an exception that the time for the DCR Hearing may change

Minutes: Upon a **motion** by P. Paquin and 2nd by J. Meschino and a **vote** of 5/0/0;
It was voted to: **Approve** the Minutes of October 24, 2006. (approved after hearings)

Bills: **Approved and signed** by All.

7:40pm **7 Bay Street, Map 34/Lot 2, Re-Opening** of a Public Hearing on the Notice of Intent filed by Steven Buckley for work described as construction of one multi-family building with associated parking, filling, grading and stormwater management.

Applicant: Steven Buckley

Representative: Stan Humphries, Robert Hannigan

Abutters/Others: Walter Introne, Jr., Denise Santry, Sheila Sullivan, Michael Holdinski, Josef Espinoza, Jan Scullane, Phyliss Aucoin, Cheryl Tolson, Natalie Lyon, David Casey, Sally Anastos, Sophia Anastos, Pam Collins, Jon Monjeau, Vernon Wood

Chair Connor opened the hearing by reading a statement explaining the reason for the re-opening of the Public Hearing. It was determined that in the previous vote taken the Commission did not have a quorum of Commissioners that had attended each hearing. The record for this project will consist of this hearing, and all written materials in the file, including all current and previous project plans, communications provided by the applicant, peer review and other interested parties, and approved meeting minutes. All Commissioners have had the opportunity to review the written record.

Mr. Humphries summarized the plans for the project first describing the resource areas and flood levels and stated that he is in agreement with the Commission concerning the resource areas. He then presented the project breaking it down into five (5) activities:

1. Description of the proposed building which is one building with 11 Condominium units that will be elevated with concrete piles with the garage floor elevation at 12.5. The slab for the garage is one foot deep and the bottom elevation would be at 11.5, which is above the 100-year flood. There will be at least 2 to 3 feet of clearance under the building to allow flooding to flow through. There is no fill planned for under the building.
2. The driveway area, which is central to the units, will be above an average of about 2 feet of gravel fill and paved.
3. The Stormwater Management System that is designed to collect the pollutants from the driveway area, take it to a sediment fore bay then into a recharge area. This system complies with the DEP regulations for Stormwater Management. There are three, 1 foot by 3-foot openings in each garage to allow for water to flow through if necessary during coastal storm events.
4. There is a fairly detailed erosion and sediment control plan for use during construction. The plan has been developed using the Mass Erosion and Sediment Control Guidelines. The drainage pipe replacement referred to in prior versions of this proposal has been removed from the project and will come forward as a separate project. Water on site during construction will be collected.
5. The landscaping plan that the applicant thinks will bring a lot more value, not only aesthetically to the site, but also as a result of storm water controls and storm water buffering. It also provides more of re-establishment of coastal vegetation that may have been on the site in the past.

As far as compliance with the performance standards of the state Wetlands Protection Act, they are looking mainly at activities within land subject to coastal storm flowage. There is no direct activity in any other resource area. There are no performance standards under the State Act for land subject to coastal storm flowage. There is a broad regulatory acceptance that fill in a coastal floodplain does not require flood storage compensation.

The Commission asked whether the combination of the proposed construction and the decision not to include repair of the drain pipe in this project will exacerbate the flooding conditions on Bay St.. Mr. Humphries responded that the development will not create a situation where the flooding on Bay St will increase in elevation or velocity. However, he said there will be a substantial increase in the amount of time that floodwaters reside on Bay St.

The Commission asked if there was any idea of how much time floodwaters would remain on Bay St. Mr. Hannigan stated that if the work on the Town drainpipe isn't done under this project or is delayed until approvals are granted, it will be status quo for the flooding on Bay Street. The project won't discharge into Bay Street so there will be no impact on Bay Street.

Mr. Humphries would like to encourage the Commission to request that a special condition be made that requires the filing of a Notice of Intent for drain work and if necessary to have that work completed before the building is completed or ready for occupancy. The Commission asked for clarification as to why the drain work was removed. Mr. Humphries stated that there is an easement that the Town owns. The drainpipe is on property that belongs to the Town. Additionally, the request that the end of the pipe be brought to daylight may require additional engineering and may trigger additional reviews by MEPA and they did not want to burden this project with that.

Mr. Buckley explained the history of the existing catch basin and drainage system that was completed after the land taking for the construction of George Washington Blvd. Mr. Buckley gave the history of the land taking and filling of the property as well as the zoning requirements for the site and the changes that have been made. He feels that if the Town feels that the land should not be built on, then Town should have acted prior to this point.

The Commission asked that the drainage system be explained. Mr. Hannigan explained that water from roof runoff will be drained into the recharge areas located around the site. The water on the driveway and paved areas will be directed to deep sump catch basin with a hood and discharged into a sediment fore bay and then through a stormceptor and then flow to the back to the recharge areas.

The Commission asked how much fill is proposed for the site. Mr. Humphries estimated the amount at 7,500 cubic feet. Mr. Hannigan stated that the fill was necessary to direct flow and support the drainage system as designed.

The Commission asked Mr. Buckley about his previous comment regarding how the Town should have acted in previous years if the land could not be developed. What would he have like to Town to do? Mr. Buckley responded that he was commenting to the fact that comments were made that nothing should ever be built on this site. What he is proposing is allowed by zoning, in fact it is less units than he could put there. He was just trying to make a point that the project was within the zoning, it meets the setbacks. He is not trying to propose a development that needs a variance. A Commissioner responded that his previous comment was that nothing "significant" should be built on the site.

The Commission asked for a discussion of the Operations and Maintenance Plan in terms of when there is a big storm event, how that will impact the drainage systems and retention pond if they get filled in and how you will address restoring the site to a functioning stormwater system. Mr. Hannigan replied, that as recommended by ENSR, the facilities would be examined a number of times through the year and within a specific time period following a storm. The Commission asked if each portion of the system was easily accessible for easy repair. Mr. Hannigan stated that the system was designed for easy inspection and clean out if necessary.

The Commission asked if the Engineer could specify the longest time that 4 inches of water would be standing in the retention areas. Mr. Hannigan explained that by removing current soil under the recharge areas and replacing it with sand it would allow the water to drain very quickly.

The Commission asked if there were plans to handle car removal or other items that are stored in the garage in a storm event to allow protection of the shellfish beds and the ACEC. Mr. Humphries stated that that was one of the reasons that the garage was designed to be elevated and includes flow through holes in the garage. Mr. Buckley stated that these issues of storage would be covered in the rules and regulations of the condo owners.

The Commission asked for clarification of a remaining outstanding issue from the peer review. Mr. Humphries recalls that the issue was regarding whether the proposed fill would exacerbate flooding issues in cases of storm overwash. There is a natural deflection of water in that area from the existing curbs. The difference of opinion was regarding whether the fill would redirect overwash and cause storm damage. Mr. Humphries argues that water from the Bay will rise and meet overwash from the ocean. Mr. Humphries feel that there would be a phase lag between tides and that the development would not exacerbate the situation on Bay Street.

The Commission questioned the statements made concerning the heights of curbing and the frictional flow. A Commissioner feels that fill will change the flow of water. A Commissioner has personally experienced water flowing that is at least 2 feet deep with high velocity through

the area. Another Commissioner stated that he had walked through the area when the water was about 1 foot deep and was concerned about the very fast current and the large volume of water on the site.

The Commission asked if the driveway proposed on GW Blvd. would remain open. It is believed that this opening may also help with water draining off of GW Blvd. Mr. Buckley stated that it was planned to be opened only during construction, but that he would consider keeping it open to allow water to flow across the property and for the Town to have access to its property.

The Commission again expressed concern as to the effect that the fill would have on the flow and direction of water. Mr. Hannigan explained the different elevations on the site and feels that when the water reaches the site, which will be at a wider point, the water would be flatter and have less depth. Ms. Herbst cautioned that this concept had not been submitted for review by the Commission's Consultant. The effect that the flow of water toward Bay Street neighbors to the west has not been quantified. Mr. Buckley stated that he has talked with his neighbor and the neighbor has flow through systems in his home and his first floor elevation is at about 11. He has asked Mr. Cooke to come to the meetings and Mr. Cooke has stated that his only concern was about the Town drainpipe and he does not have a concern about the development.

Another Commissioner stated his personal experience of going through the area when there was water up as high as a policeman's thigh.

Abutters' questions and concerns:

What is the total capacity of water that the recharge areas or catch basins could hold at one time? Mr. Hannigan explained that the systems were designed 5 to 10 times greater than what is required by standards.

Is any part of this project, storm drains, buildings etc. being built on land that was filled during 1931? Mr. Hannigan stated that three pipes would be on filled land. Abutter asked if this would require a Chapter 91 license. The Commission stated that its policy is to cover this as a Special Condition. It would require the applicant either provide a license or provide a letter stating that one is not needed. Abutter asked if the filled land is considered wetlands because it is over tidal waters? The Commission responded that it is a coastal bank.

A Commissioner brought up concerns about the Chapter 91 license presented by the applicant. The license approved filling (not done by this applicant) after-the fact. The Chapter 91 license does not address the land landward of the fill. It makes a presumption that the land behind is properly permitted by Chapter 91. By the land behind it, this means the land on which the building is planned. Are we trying to build on land that is not fully investigated?

Ms. Collins submitted a letter to the Commission regarding the Commission's decision to re-open the hearing, and the concerns of the abutters. Chair Connor read the letter and it was accepted for the record. Ms. Collins also submitted a copy of a letter for the file that was signed by neighbors addressed to the Chief of Police with their concerns about the project in addition to submitting more photographs.

Mr. Buckley presented a letter for the record. The Commission determined that it was not relevant to the project but would add it to the file.

An Abutter stated concerns about safety, and concern about evacuation of residents. She added that this site is the only way for water from the ocean to exit into the bay. Also concerns regarding the driveway on GW Blvd. and the flow of water once the building would be built.

Other Abutters expressed concern about flooding and the flow of water. The Commission was asked if a wave study was done as requested by the DEP. The Commission responded that one was not needed.

A resident spoke in favor of the project and his respect for Mr. Buckley in the way that he conducts his business and his success on previous projects.

Mr. Parker expressed regard for the applicant and regrettably made the following motion.

- Upon a **motion** by F. Parker to Deny the Project and **2nd** by J. Meschino and a **vote** of 4/3/0; (F. Parker, J. Meschino, P. Paquin, J. Reineck to deny) (S. Connor, S. Das, J. Hass opposed to denial)
It was **voted** to: **Deny** the Project

9:05pm Nantasket Avenue (DCR Beach) Map 37/Lot 10, Opening of a Public Hearing on the Notice of Intent filed by the Department of Conservation and Recreation for work described as Seawall Toe Protection and access improvements.

Applicant: Michael Galvin (arrived during hearing)

Representative: Craig Wood, Stan Humphries, B. Hays (arrived during the hearing)

Prior to the presentation Chair Connor asked Mr. Wood if he would clarify how much of the project would be present this evening.

Mr. Wood stated that they were aware that not all of the research is complete for some of the longer horizon planning that the DCR is undertaking. Today's discussion would be about an interim toe revetment measure and access improvements. That is the limit of what is being asked of the Commission at this time. It is necessary to make clear that what DCR is proposing tonight is not considered to be a long-term solution.

Mr. Wood explained that what he would like the Commission to consider at this hearing has three elements to it.

1. Toe protection along the 2,000 foot middle section of the seawall
2. Repair the stairs and handicap access where it meets the revetment
3. Minor repairs to the concrete and replace or repair railing on top of the wall

The plans for the toe protection are identical to the previous project at the southern part of the beach. It consists of a stone revetment that goes 37 feet from the face of the wall. The top of the wall is at elevation 16.5 with a 5 foot crest at elevation 10 and there is a 3 to 1 slope and another 5 ½ foot toe with the top of the toe being at elevation 1. The work consists of two layers of 3,500 pound armoring stones. The beach profile is shown for average conditions along the 2,000-foot section. The summer elevation is an average of approximately 8.5. The average winter elevation against the wall is elevation 7. The Army Corps studies state that elevations below 7 would suggest that the wall is vulnerable.

The access work would consist of reconstruction and replacement of existing stone with cut stone and rework or replace as needed. In addition they will replace or repair damaged railings.

Work is scheduled to be done prior to the 2007 beach season. The information for the need to stabilize the wall is new to the DCR and that is why they would like to have this portion of the project on a fast pace. The work would also be completed according to tides to allow for work in dry conditions.

Previous conditions by the Commission for other projects have been included in the narrative for this proposal. Specifically mentioned is that no materials will be stored on the beach overnight.

The Commission asked Mr. Wood if removal of materials will include demolition materials? Mr. Wood read the proposed mitigation from the application that includes "all construction material would be removed". The Commission requested that "demolition" be added to that statement.

Mr. Humphries was introduced and added to Mr. Wood's presentation that the revetment would be rough faced and not smooth as may be interpreted by the graphic. He feels that the advantage of the slope 3 to 1 rip rap in lieu of the vertical concrete wall is that the belief that the extreme vertical variation during the seasons of the sand elevations will not be as great. And also he feels that there will be a significant reduction in the amount overwash.

The Commission returned to the statements of stockpiling materials, Mr. Wood said something that was different than what was written. What is written states that stone and sand may remain overnight. The Commission is concerned with the stone that was left on the beach in the prior project was there for too long. Mr. Wood is hoping that there will be some flexibility that would allow the 3,500-pound stone that was not placed during the day could remain overnight. The Commission is concerned that during the previous project, smaller stones were left on the beach and does not want staging area to be on the beach.

The Commission asked where the access way would be for construction vehicles. Mr. Wood stated that he felt they would use the access ways that the DCR currently uses and has no plans for temporary access.

The Commission asked if the old wall was anchored. Mr. Humphries stated that it was not.

The Commission expressed concern over the current condition because the seam is actually showing. Mr. Wood had the same observation that you physically see the toe of the wall exposed in front of the beach house. It was explained that the wall that juts out at that point; it is not a toe being exposed.

The Commission asked why would they present plans with cross sections that in fact do not really reflect the reality of the final project, i.e. the flatness of the slope, the fact that the stones are all very tightly arranged with no spaces in between. Mr. Humphries explained that engineers this is how engineers represent the project. The stones will be randomly placed to allow the ocean to locate the stones. Monitoring will allow for proper placement of stone. The Commission questioned if there would be monitoring on site for this project and was there monitoring for the previous project. Mr. Wood explained that there will be monitoring of this project. The Consultants will do periodic checks on work as well as the contractor that is hired by the state to do the work.

The Commission understands that they are armoring a perpendicular wall; they are taking out a certain amount of sand out of the system and replacing it with stone at the entire length of the project. That sand is now being lost to the system. How do they plan to keep that sand in the system? Mr. Humphries stated that it is pretty much a closed system, that that volume of sand that is removed in order to replace with the toe protection will be kept on site. The beach will be elevated with that sand.

The Commission asked how many winter profiles has the elevation been at or below 7. Mr. Wood could not answer that. The Commission had requested that a graphic presentation be given on the data that was available. It was the understanding of the Commission that this information was available.

Mr. Humphries was asked if he was aware if the state does annual surveys along the wall that would include the elevation of the beach. Mr. Humphries is not aware of that. The question is being asked because something has triggered the necessity to move quickly. If the ACOE said that below 7 is a dangerous situation, the Commissions' question is and for how many years? Is there data to support how many years this situation has been unchanged?

Ms. Herbst asked if there was analysis that would indicate what type of storm the wall could withstand. Mr. Humphries referred to the ACOE opinion that was included in the previous project. He stated that the engineering analysis that goes toward defining the level of stability of the wall is based on three criteria. It doesn't have to do with a 25 year or 100 year storm. Could the ACOE opinion be included with this submission? The information is in the file and can be pulled for review.

Mr. Bernard Hays entered the meeting and explained the beach profiles from 2005 and beach profiles from March of 2006 collected by his team, some of the surveys are from 2004. Mr. Hays stated that additional studies of this data should be done to see if there is any trend. The survey information needs to be further analyzed. The Commission would like the data to be arranged to allow for a comparison of similar times and similar places.

The Commission asked how much data was included in the survey and does it indicate how long the elevation has been at 7? Mr. Hays presented much of the data included. The Commission is still inquiring why they are being asked to review this project at such a fast pace without knowing how long the condition has existed.

The Commission asked if the Consultant could pull out from the entire submission only what it is that they would like to do now.

Mr. Parker left the meeting

The Commission asked what is the long-term solution to the project? Mr. Hayes stated a long term study which includes shore protection features, protection of the shore line and beach nourishment, you could add the revetment to this, then there is interim study which includes beach nourishment.

The Commission stated that they have requested information that has never been received from the DCR in the past. Mr. Wood could not answer to that, as he has not been involved with previous projects.

A. Herbst asked if one of the requirements of the TSF was that sand be placed at the toe 2 ½ feet deep, 38 ft out from the wall. Mr. Hays was not sure about that previous project. A. Herbst brought up the point that the current proposal indicates that if the sand falls below 2-½ feet sand will be brought in. If you were doing it today, would you bring in sand? Mr. Hays stated that you need to have sand to protect the toe.

The Commission feels that they need to get the numbers crunched and digested and presented in a way that clarifies why this project is necessary.

S. Das left the meeting.

The Commission asked if the stairs will need to be replaced each year? Mr. Hays stated that the stones to be used are 3,500 pound and will be anchored.

The Commission asked how deep into the wall the railing is, and, is the railing adding to the deterioration of the wall from inside out? Mr. Wood stated that as part of the overall inspection the structural stability of the wall was included. It is his feeling that the material of the rail has not caused the deterioration of the wall. Work completed now can be sealed.

A discussion relating to the past DCR project took place.

The Commission has requested that the applicant resubmit only material pertinent to the project and the work to be completed at this time. The Commission also feels that they do not have enough data to make a determination at this time. Additional material regarding beach elevations was requested.

- Upon a **motion** by P. Paquin and **2nd** by J. Hass and a **vote** of 5/0/0;
It was voted to:
Continue the Public Hearing to 11/28/06, at a time to be determined.

10:30pm 121 Bay Street, Map 33/Lot 100, Opening of a Public Hearing on the Notice of Intent filed by Beatrice Bergstrom for work described as addition to a single-family house.

Applicant: Beatrice Bergstrom
Representative: David Ray, PLS
Abutter/other:

A correction was made to note that this home is a multi- family home. Mr. Ray presented the plans for a two- story addition. The ground floor would be at or above elevation 12. Two drywells would be installed on the eastern side of the property to collect roof runoff. There will be a full foundation. A shed that is currently in the buffer zone will be removed. There is a plan to replace it with a smaller shed at a later date.

The Commission found that there was no protection for the bank or erosion control indicated. During a site visit it was also noted that there was a concrete wall on site that was not permitted in addition to the shed. The Commission also noticed that there was erosion on the coastal bank. There was a difference of opinion as to where the actual coastal bank was.

An abutter that did not sign in submitted photographs and expressed his concern with erosion. The coastal bank at this site is higher than those of surrounding properties.

The Commission will schedule another site visit.

- Upon a **motion** by P. Paquin and **2nd** by J. Meschino and a **vote** of 5/0/0;
It was **voted** to:
Continue the Public Hearing to 11/28/06, at a time to be determined

10:50pm 93 Atlantic Avenue, Map 53/Lot 3, Opening of a Public Hearing on the Request for Determination of Applicability filed by Gregory P. Stevens for work described as replace and extend driveway with permeable pavers.

Applicant: Gregory Stevens
Abutter/other: Dick Stevens

This RDA is the result of a Letter of Violation for work being done without a permit.

Mr. Stevens began removing and was planning to replace the existing asphalt driveway when he was issued a stop work order. Mr. Stevens was very apologetic about not requesting a permit from the Commission. He has stated that he will replace the asphalt driveway with permeable pavers.

- 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**.

10:58pm 767 Nantasket Avenue, Map 15/Lot 141, Opening of a Public Hearing on the Notice of Intent filed by the Town of Hull for work described as demolition of the former Lighthouse Assembly of God Church.

A. Herbst presented the project that is still waiting for a DEP Number. At this time the building has become a danger to the public. It was requested that the Commission vote on the project based on the condition that the DEP does not have any negative comments or concerns about the project and issues a number.

- 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.

11:00pm 670 Nantasket Avenue, Map 19/Lot 1 (NE35-944) Continuation of a Public Hearing on the Request to Amend Orders of Conditions filed by Tedeschi Food Shops for work described as connect the roof drains to a catch basin, and replace the front sidewalk as requested by the Hull Commission on Disability.

This is a continuation of a hearing that a question concerning the need for a stormwater management plan was unanswered. It has been researched and determined that a stormwater plan is not necessary. There is a letter stating this for the file.

- Upon a **motion** by J. Hass and **2nd** by S. Connor and a **vote** of 4/0/1; (J. Meschino abstained)
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**.

11:05pm 42A State Park Road, Map 12/Lot 092 (SE35-XXX), Continuation of a Public Hearing on the Notice of Intent filed by F.E.S. Realty, LLC for work described as construction of a grease trap, removal and construction of stairs, installation of concrete pads.

Waiting for DEP #

- 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 11/28/06, at a time to be determined.

Request for a Certificate of Compliance: 65 Edgewater Rd. garage—request as-built
65 Edgewater Rd. patio —signed
131 Edgewater Rd. (house) need as-built
14 Driftway – denied, require as-built

Updates: Russell Mason paid \$400 fine to settle violation at 17 Gun Rock.

11:20 pm P. Paquin **motion**, **2nd** by J. Meschino and a **vote** of 5/0/0; **voted** to Adjourn