



## HULL CONSERVATION COMMISSION

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**June 9, 2009**

**Members Present:** Judie Hass, Vice Chair, John Meschino, Paul Paquin, Paul Epstein, Max Horn

**Members Not Present:** Sheila Connor, Chair, Jim Reineck

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

**7:30pm** Vice Chair Hass called the meeting to order

**Minutes:** Upon a **motion** by P. Epstein and **2nd** by J. Meschino and a vote of 5/0/0;  
It was **voted** to:  
**Approve** the Minutes of May 26, 2009 as amended.

**7:50pm** **North Truro St., Map 47/Lot 22 (SE35-1065) Continuation** of a public hearing on the Notice of Intent filed by William Horne for work described as single family home and driveway.

The applicant requested a continuance to June 23.

- Upon a **motion** by J. Meschino and 2nd by P. Paquin and a **vote** of 5/0/0;  
It was **voted** to:  
**Continue** the Public Hearing to June 23, 2009 at a time to be determined.

**7:50** **Rockland Circle and Dump Access road, Map 43/Lot 001 and Map 38/Lot 044 (SE35-1082) Continuation** of a public hearing on the Notice of Intent filed by Two A Realty Trust and Town of Hull for work described as grading and drainage improvements.

Applicant: Ernesto Caparrotta, John Reilly (not signed in)  
Representatives: Dan Orwig (not signed in), Lenore White  
Consultant for the Commission: Mark Manganello

Mr. Orwig presented an overview of the existing conditions of the site. Ms. White discussed a previous site visit that she and Mr. Manganello conducted to determine what information was necessary in order to review the wetlands delineation. Ms. White stated that Mr. Manganello felt that some of the vegetation at the site was indicative of a salt marsh and wanted to know why Ms. White had not characterized more of the site as such. Ms. White was advised by Mr. Manganello that if work were going to be conducted in some of these areas, the applicant would have to overcome the presumption in the regulations that salt marshes protect interests defined in the Wetlands Protection Act. Ms. White began with her interpretation of the findings of the wetlands delineation indicating that the area including elevations up to 7.57 extends toward the center of the site appears to meet the definition of a salt marsh.

Following up on Mr. Manganello's correspondence, Ms. White stated that the plans would be updated to provide the current FEMA Map information.

It was determined that the site was not part of the Weir River ACEC.

Ms. White stated that there is a coastal bank on the site at the top of the ledge however it was not indicated on the plans.

Ms. White indicated that the area of salt marsh is limited to the 7.57 elevation, and it is relatively small and relatively insignificant in terms of what functions it does provide. Ms. White stated that although Mr. Manganello did see small fish on the site, she was there at both low and high tide and never saw any fish. It is her opinion that the lack of peat on the site limits the functioning of the area and the significance. She feels that the area is full of fill, and relatively degraded and that is not as significant of a site that you would find in other salt marshes. Ms. White would request the Commission find the salt marsh area outside her delineation to be insignificant in terms to the overall interests that the salt marsh provides.

Mr. Manganello advised the Commission that seeking a determination of non-significance is very difficult. Does it protect any interests of the Act? Non-significance means that the salt marsh does not play a role in protecting any interests of the Act. If there is one interest protected, then it is significant.

Mr. Manganello summarized the site from his prospective. He agrees that there are two types of salt marsh areas on the site. It is obvious that the inner delineated area is more valuable, it provides protection to nearly all of the interests that salt marshes typically do. The wider area appears to protect some of those interests to a lesser degree. It is a matter of "does it protect them at all". Mr. Manganello stated that he needs more information from the applicant to support the Applicant's opinion that this area provides zero protection to any of the interests of act.

Mr. Manganello referred to his correspondence of June 9, 2009 that requests additional scientific documentation to support interests of prevention of pollution, fisheries and wildlife habitat and storm damage prevention. He has also asked that the delineated areas be labeled correctly on the plans.

The Commission asked if there are any areas of agreement between the two wetland scientists that are significant or insignificant. L. White indicated that the area up o elevation 7.57, which is the high tide mark is considered salt marsh. The Commission asked M. Manganello if there was any area beyond that 7.57 that he considers to be a salt marsh. Mr. Manganello stated that that is why he has asked for more scientific information to make that final determination; there is salt marsh vegetation above elevation 7.57, which is an indication that the salt marsh area extends beyond the elevation indicated by the applicant. In addition he asked for more information to support the designation of 7.57 as the appropriate high tide elevation.

The Applicant maintains that the absence of peat on the site is a major indication of the functions or lack there of on the site.

The Commission was advised that the term significant is not what is included in the WPA. The WPA indicates that the question is "what role does the resource area play", or, does the salt marsh play any role in protection of the interests.

Ms. White will provide further information as requested by Mr. Manganello including delineating the salt marsh boundary and providing evidence to support the assertion that the salt marsh does not play a role in protection of the interests of the act, in particular fisheries and shellfish habitat and pollution prevention. It was requested that Ms. White provide her information on a timely basis to allow for proper review by Mr. Manganello and the Commission.

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

**Continue** the Public Hearing to June 23, 2009 at a time to be determined.

**9:09pm** J. Meschino **motion**, **2nd** by M. Horn and a **vote** of 5/0/0; **voted** to Adjourn