



HULL CONSERVATION COMMISSION

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January 22, 2013

Members Present: Sheila Connor, Chair, Paul Paquin, John Meschino, Paul Epstein, Max Horn, Sean Bannen, Elizabeth Fish

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

7:30pm Chair Connor called the meeting to order

Minutes: Upon a **motion** by P. Paquin and **2nd** by J. Meschino and a **vote** of 6/0/0;
It was **voted** to: **Approve** the Minutes of January 8, 2013 as amended

7:40pm 837 & 839 Nantasket Ave, Map 12/Lot 106 (SE35-1205) Continuation of a Public Hearing on the Notice of Intent filed by Kelley's Sunset Marine, Inc. for work described as repair existing docks and pilings.

Applicant: Donna Capone, Paul Parsons

Abutters/Others: Peter Lutze, Ray McCormack, John Bergonzi, Edward Cotter, Christopher Partridge

Documents: Plan Accompanying the Petition of Sun Kelley Realty Trust

Pier A #5548 - Plan with Post and Rail Details (2 Sheets)

Plan Accompanying Petition of Robert J & Priscilla Baker (2 sheets)

Chapter 91 License No. 536

Chapter 91 License No. 5548

Untitled Plan submitted by Christopher Partridge

Correspondence from Edward Cotter dated January 9, 2013

Div. of Marine Fisheries email from Tay Evans dated January 17, 2013

Memo from K. Bornheim, Harbormaster/Shellfish Constable dated January 15, 2013

Superseding Order of Conditions (35-939) Special Conditions for reference

Ms. Herbst provided an update of information that she received since the previous hearing. Ms. Herbst stated that she has been in contact with Dave Hill, an analyst for the DEP Southeast Region regarding Chapter 91 License #536 for this property. Mr. Hill informed her that the license for this pier is valid. There is no expiration date for the license and the license runs with the land regardless of ownership. In answer to a question from an abutter concerning revoking the license if the pier was not used for five years; Mr. Hill informed Ms. Herbst that he would not revoke the license. Mr. Hill indicated that licenses are generally only revoked for lack of use when the pier no longer exists. Mr. Hill is aware of the current condition of the pier. The Chapter 91 License presented by the Applicant to the Commission show that the pier is on property owned by the Applicant. The Commission received additional comments from the Division of Marine Fisheries recommending minimizing work in the intertidal zone and where possible conducting work from the upland and if a barge were used, situations that would cause the barge to ground should be avoided. A Memo from the Harbormaster/Shellfish Constable was received in which he stated that he does not believe the request to repair the two piers would be harmful to the fishery or the surrounding habitat.

Mr. Parsons informed the Commission that Mr. McDevitt who will be performing the installation of the pilings is unable to attend the meeting. Mr. Parsons stated that work would be completed with a crane on a barge that will not touch the mud and that work would be done during high tide. Mr. Parsons stated that Mr. McDevitt indicated that the work would take three to four days to complete.

Regarding a previous issue of non-compliance with a Chapter 91 License, Ms. Capone stated that once you are in compliance, no further correspondence is sent to the Owner from the DEP. Ms. Capone stated the length of the Pier B to be repaired is as indicated by the Chapter 91 License #536 and not as shown in the correspondence accompanying the Notice of Intent.

Ms. Herbst read aloud Special Conditions #22-29 from a Superseding Order issued to Acushnet Marina for a similar project with two additional conditions that the Commission may want to consider. Ms. Capone stated that she had no objections to these Special Conditions.

Comments from Abutters

R. McCormack – Asked what the Pier at U St. and Cadish Ave. would be used for. The Commission advised Mr. McCormack that the use does not fall under the jurisdiction of the Commission.

C. Partridge – Representing 2 U Street stated that he was opposed to any new dock whether it is used for commercial or recreational use. He is concerned with parking on U St. and Cadish Ave. and believes that it would create a public safety issue for pedestrians and vehicles. Mr. Partridge made reference to a past civil case pertaining to ownership of tidal flats and presented an untitled Plot Plan. With regard to the environmental impact, Mr. Partridge read Item 6 from a document used in conjunction with a filing for a project in 1994 relating to subaqueous sediments. This document was not submitted for the file. Ms. Capone answered that since 1994, permits for repair of the pier were received and work was completed. Ms. Herbst added that the Commission had approved a similar project in 1994 and the DEP issued a Superseding Order for the project. The Commission questioned the validity of the Plot Plan that was presented as it did not contain a stamp from a licensed surveyor and differed from the Plan submitted by the Applicant.

E. Cotter – Referenced his correspondence that was submitted to the Commission following the previous hearing. Mr. Cotter added his concern regarding ownership of property. He urged the Commission to request that a new survey of the property be performed by the Applicant. The Commission advised Mr. Cotter that they were referring to a plan that is stamped by a licensed professional and that if the abutters disagreed with the submitted plan, it would be up to them to have a new survey completed. Mr. Cotter questioned the methods of construction relating to the subaqueous sediments and work being done from land versus a barge. Mr. Cotter stated that the letter that Mr. Partridge and he were reading from was written by Mr. Cotter, Sr. for Request for Action from the Department for a previous permit. Ms. Herbst added that the Conditions that she read were from a Superseding Order of Conditions issued by the DEP and that those were considered standard conditions for this type of project to protect a barge from bottoming out. Mr. Cotter was informed that it is a standard condition that A. Herbst meet with the Contractor on site prior to beginning work to establish clarity work schedules and methods. Mr. Cotter asked that a condition be added that work not be done during May through October. Mr. Cotter was advised that adding conditions to the permit that do not fall under the wetlands regulations is not appropriate. The Commission suggested that the Abutters contact the Parking Committee and Police Department with concerns for public safety.

Special Conditions were added as follows:

- Construction of the pier is to be accomplished by working out from and upon completed portions of the pier. No heavy construction equipment, vehicles or barges are permitted on the tidal flat during construction of the pier.
- Alternatively, construction may be accomplished from a barge operating in at least two feet of water. The barge shall not be permitted to ground out at low tides.
- To allow sunlight penetration, the individual deck planks of the structure are to be spaced at least $\frac{3}{4}$ inch apart.
- Dredging (including but not limited to the effects of propwash) is neither proposed nor permitted in this filing.

- Wood Preservative must be dry before any treated wood is used in construction. The applicant may not use chromated copper arsenate (CCA) treated wood, rather alkaline copper quaternary (ACQ) must be used.
- Jetting of piles is prohibited. Piles shall be mechanically driven to refusal or a depth of fifteen feet.
- If removed, any portion of the dock or float system shall be stored in a suitable upland location or upon the permanent portion of the pier. Said storage shall be in conformance with any applicable local, state or federal requirements.
- Upon a **motion** by P. Epstein and **2nd** by P. Paquin and a **vote** of 6/0/0;
It was **voted** to:
Close the Public Hearing and **approve** the project with Special Conditions. The Order of Conditions was **signed**.

On a matter separate from the proposed project, the Commission will conduct a site visit to evaluate the complaint regarding trash on the site and the possibility of enforcement for site clean up. Mr. Parson stated that much of the debris on the site comes in with the tides. He requested that he be allowed to use a hook line to drag the large logs through the mud and off the beach. The Commission will look into the work necessary to achieve removal of the debris. .

Other Business:

The Commission welcomed new member Elizabeth Fish.

The Commission was advised that work is being planned to lift the home at 32 Ocean Ave. off the pilings, have the pilings cut down and then lower the home back on the pilings. A platform will also be removed and two sono tubes for a set of stairs are proposed. The Commission indicated that the work would require the filing of a Request for Determination of Applicability.

Site visits were scheduled for February 10, 2013. M. Horn and S. Connor will not be available.

9:15pm Upon a **motion** by M. Horn and **2nd** by P. Epstein and a **vote** of 7/0/0;
It was **voted** to: Adjourn