



HULL CONSERVATION COMMISSION

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May 28, 2013

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

Members Not Present: Sheila Connor

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

7:30pm M. Horn, Vice Chair called the meeting to order

Minutes: Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 6/0/0;
It was **voted** to: Approve the Minutes of May 14, 2013

7:40pm Nantasket Avenue and Hull Shore Drive, DCR Reservation; Opening of a Public Hearing on the Request for Determination of Applicability filed by the MA Department of Conservation and Recreation for work described as repair sidewalks and curbing in 6 locations.

Documents: Plan – Comm. of MA MDC Parkway Management System – Dated April 1986
Photographs of work areas

Owner/Applicant: Mark MacLean

Mr. MacLean presented the project that is an after the fact filing for work including removal, replacement and/or repair of sidewalks and curbing in 6 locations. Mr. MacLean submitted a revised plan indicating a change in the location #6. Silt sacks that were not installed in catch basins prior to the start of construction were added and still remain in place. Mr. MacLean will have them removed when all work is complete. Mr. MacLean was informed that future maintenance work in the flood zone must be permitted.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 6/0/0;
It was **voted** to:

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

7:47pm 51 Harborview Rd, Map 56/Lot 28; Opening of a Public Hearing on the Request for Determination of Applicability filed by Tom Fitzgerald for work described as expand deck.

Documents: Plan – Proposed Deck - Dated 5/23/2013

Representative: Michael Nash

Mr. Nash presented the project that is to include the addition of two decks to the existing rear deck utilizing four (4) sonotubes. The decks will be 10' off the coastal bank. The existing patio beneath will not change.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 6/0/0;
It was **voted** to:

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

7:53pm 116A Atlantic Avenue, Map 53/Lot 39; Opening of a Public Hearing on the Request for Determination of Applicability filed by Richard and Paula Ahl for work described as replace decks.
Documents: Replacement Deck – Rivermoor Engineering – Dated May 2013
Owner/Applicant: Richard Ahl

Mr. Ahl presented the project that is to include replacement of decks utilizing eight (8) sonotubes within the existing footprint. The deck will have removable panels that will be stored under the home during the winter. The deck will be at least 10' off the seawall.

- Upon a **motion** by P. Epstein and **2nd** by E. Fish and a **vote** of 6/0/0;
It was **voted** to:
Close the Public Hearing, and **issue** a negative Determination of Applicability. The Determination of Applicability was **signed**.

7:55pm N. Truro Street, nearest Map 47, Lot 22 (SE35-xxxx) Opening of a Public Hearing on the Notice of Intent filed by William Horne for work described as extend roadway.
Documents: NOI Site Plan – Neil Murphy Associates – Dated Revised 5/13/2013
Taking of Land Document – Submitted by L. White

Owner/Applicant: William Horne
Representatives: Lenore White, Jeffrey Tocchio
Abutter/Others: Steve Ivas, Susan Etkind, Kevin Conway, Phillip Delano, Irwin Nesoff, Susan Bradley, Elizabeth Parkes, Scott Plympton, Judeth Van Hamm, Lloyd Emery

Ms. White confirmed that new plans were submitted that showed new cross sections for the rain garden. The project includes the extension of the unpaved portion of the roadway approximately 68' and construction of a rain garden. A Stormwater Report was submitted as part of the application.

The proposed project is within the Riverfront Area and Land Subject to Coastal Storm Flowage. Ms. White stated that they have met the 4 standards for work in the Riverfront Area by:

1. There are no performance standards for Land Subject to Coastal Storm Flowage.
2. Have submitted notification to Natural Heritage and Endangered Species Program and does not believe there will be any affects.
3. There is no other alternative for the project; the roadway must be in the roadway easement.
4. The project will only alter approximately 2,800 square feet of the Riverfront Area, which is well below the 5,000 sq. ft. limit.

Ms. White stated that the project provides for erosion control however she does not expect erosion in any areas.

The Commission questioned discrepancies within the application. The Project Narrative stated that the roadway surface would be gravel to meet the ACEC standards; the Stormwater Report and plans indicate that the roadway would be paved. Ms. White stated that the roadway would be paved and that the ACEC standard says you can't alter a BVW; this project is only in the buffer to the BVW. The commission noted that snow should not be permitted to enter a rain garden and asked how that would be prevented. Ms. White said the 12" wall would provide a barrier and that the DPW would be instructed to put the snow elsewhere.

Ms. White stated that the proposed roadway will be constructed according to DPW standards and that the plans reflect comments by J. Stigliani including the request to construct a rain garden. Mr. Tocchio pointed out that the list that he has from Mr. Stigliani calls for a 2 ½ inch base and these plans call for 1 ½ inch base, therefore there will be some slight revisions between now and the next meeting. It is his understanding that the plan would be reviewed by DPW then be sent to the Planning Board for whatever is required for regulations so that when the Town accepts the roadway that it is not done to substandard conditions. However he does not expect that review to change the footprint of the roadway. When asked if J. Stigliani has reviewed this plan, Mr. Tocchio stated that he believes that he has and that they have a report that shows the requirements for the

base. The Roadway is being constructed in the Town's right of way and will be a Public Roadway. Mr. Tocchio added that on page 1 of Form 3, the Town of Hull is listed as the Owner. Ms. Herbst stated that the Stormwater Report lists Mr. Horne as the Owner and person responsible for maintenance. Mr. Tocchio will revisit this issue.

Ms. Herbst noted that there are additional requirements that must still be addressed like the requirement to maintain 100 feet of vegetation in the riverfront area, which is not provided for in this project. Ms. White stated that they are of the opinion that because there is no other location to put the roadway, this qualifies as a limited project. It is limited access and that they have met the standard to the extent practicable, but there is no way to maintain 100 feet of undisturbed vegetation. Ms. Herbst added the limited project language says that it is a limited project if you are going to an upland site. This site is in the Riverfront and Land Subject to Coastal Storm Flowage, therefore this would not be a limited project.

Ms. Herbst pointed out that although Ms. White stated that this project qualified under 10.58 (4) (d) 3, however that is for a single family house and driveway and this project is for a roadway.

Ms. White explained the function of the rain garden as follows: there is a little rip rap at the edge of the Bordering Vegetated Wetland, the runoff from the roadway is to be directed down in the pea stone area which will trap the water and it will fill up at some point, but the purpose of that is to settle out any particulate matter and as it overflows, it goes in an overland flow through the vegetated area again sort of another water quality treatment and then it goes into the rain garden. The purpose of the rain garden is to detain the runoff so that it exits the rain garden through the 4" discharge pipe. The purpose of the rain garden is to slow down the flow. The release will be slow. It is really a mechanism to show that the post construction flow rate is not at any greater velocity than the pre-construction.

Ms. Herbst questioned how the all of the water will be directed to the rain garden because it appears that the road runoff that flows from the crown of the road toward the proposed home is not directed to the rain garden. If there is not a berm in front of the home, where will that runoff go? Mr. Tocchio stated that they will have their Engineer look at this and provide further detail.

Ms. Herbst asked Ms. White how she arrived at her estimate that the seasonal high groundwater was at 8.5. Ms. White stated that that was based on the test pits. Ms. Herbst noted that there is no location of the test pit on the plan.

Ms. Herbst pointed out that the plans for the original filing for the house and this roadway plan were completed by two different surveyors and the elevations for the same area vary very significantly. Ms. Herbst believes that the elevations are more likely to fall more in line with the survey done by Nantasket Survey Engineering. Mr. Tocchio stated that they would look into this. Ms. White stated that she cannot explain this as they gave the new surveyor the CAD file from Nantasket Survey. The different elevations further raise questions regarding the finding that groundwater elevation is 8.5. Mr. Tocchio stated that they would provide additional information on how to correlate that. The Commission also stated that wetland flags and/or numbering at the site are not correct.

Ms. Herbst also requested that the wetland line approved by DEP be shown on the plan. The Applicant was advised that the Commission would be requiring a Peer Review for the Stormwater Management which should also include the survey work. The plans should be corrected prior to the Peer Review. The Applicant was also advised to check with the DPW and the Planning Board for their requirements so that the Peer Review will include all comments. Ms. White asked that the Commission not start the proceedings for the peer review at this time.

The Commission raised numerous concerns with the sufficiency of the narrative both with regards to confusing phrasing and with a failure to support assertions that the performance requirements have been met. The applicant said that the narrative would be revised.

Referring to Ms. White's comment that the catch basin would probably always have water in it, an Abutter felt that speaks to a higher water table than what was advertised.

An Abutter pointed out that the materials provided to Natural Heritage say the road will be gravel and asked whether Ms. White was going to contact them again to let them know that the roadway would be paved. Ms. White stated that if they had any questions, they would be happy to answer them but have not heard back from them. Ms. White will clarify the difference in materials with them.

Abutters questioned the delineation for Mean High Water stating that if there are other questions with the survey, this number must also be incorrect. Ms. White stated that the information was taken from a previous survey and they would need to correct all the elevations.

A. Herbst stated that they had also shown the 100-year flood elevation from the superseded map and that needs correction.

An Abutter stated that there is a reason the road ends where it does and a reason why there are buffer zones. There is a tremendous amount of runoff in that area which he experiences on his property every time it rains. The water just streams down the street.

Additionally the Abutter added that regardless of what number is shown on the plan for the elevation of the catch basin, the catch basin would be under water several times a year and that everything in it would end up in the Weir River. He also questioned the impacts of the roadway on the ACEC.

An Abutter questioned the reference to a 7 inch curb mentioned at the Selectmen's meeting and now it is being indicated as a 12 inch curb. The Abutter stated that the snow pushed down the end of the street is 5 to 6 feet high after a snowstorm, which includes road salt and road sand that is now able to filter through the earth in the buffer. With an impervious surface, the runoff will be going right into the river, right by the catch basin and into the river. He also believes that erosion has not been addressed and a site visit should be done at low tide to look back at the area of the proposed roadway.

An Abutter asked how much fill would be needed to be brought in for this work and how deep would the underpinning of the road have to be to give it sufficient support. Where the road is proposed is an area now where the surface water seeps in.

An Abutter stated that they also felt that the salt marsh and the water birds should be protected.

When asked if there was any recourse to go back to the DEP with the questions of the varying surveys for the site that may include the approved home, A. Herbst stated that the Commission will have to first determine which survey is correct.

S. Ivas representing an abutter requested that he receive a copy of the corrected Notice of Intent and Plans to allow him to review and comment on the project.

The Commission requested further detail on the rain garden, i.e. design, material and instructions for how it will operate. An additional plan with a larger scale was also requested. The Applicant requested that the Commission hold off on sending out the request for a Peer Review.

- Upon a **motion** by P. Epstein, **2nd** by M. Horn and a **vote** of 6/0/0;
It was **voted** to:
Continue the Public Hearing to June 11, 2013 at a time to be determined.

E. Fish recused herself

Hall Estate Attendees: Richard Moscateli, Karen Hanley, Diane Watson, Jean Kerry, Janice Chandler, Larry Kellem

Members of the Hall Estates Board of Trustees and Management Company attended the meeting to discuss a violation that resulted when vegetation was removed from the coastal bank adjacent to Rivers Edge Drive without authorization. The Trustees were reminded of an On-going Special Condition that prohibited cutting, clearing, or topping of any trees or vegetation below elevation 12. Mr. Moscateli stated that the intent was to remove vines, trees entangled with vines and trees damaged by storms. Ms. Fish had previously discussed with Ms. Herbst the desire to remove dead trees, but the work done went well beyond dead tree removal.

The Commission determined that the Trustees must submit a plan for restoration within 90 days and that the 12 foot contour shall be delineated with wetland's signage.

- Upon a **motion** by P. Epstein and **2nd** by S. Bannen and a **vote** of 5/0/0;
It was **voted** to: Issue an Enforcement Order

Requests for Certificates of Compliance

1 Breakers Lane - P. Epstein **Motion**, M. Horn **2nd**, vote 6/0/0; CoC **issued**

110 Atlantic Ave - P. Epstein **Motion**, M. Horn **2nd**, vote 6/0/0; CoC **issued**

305 Beach - P. Epstein **Motion**, M. Horn **2nd**, vote 6/0/0; CoC **issued**

6 Gun Rock – The Owner must elevate the storage shelf that is below the house to an area above the 100' flood zone.

Emergency Cert – DCR Seawall – The Commission was informed that an Emergency Certification was issued to the DCR for work to be performed on the seawall.

94 Salisbury St. violation – The Commission was informed that an enforcement letter has been sent to the Owner, George Burke for removal of vegetation on the coastal bank.

10:15pm Upon a **motion** by J. Meschino and **2nd** by S. Bannen and a **vote** of 6/0/0;
It was **voted** to: Adjourn