



HULL CONSERVATION COMMISSION

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June 25, 2013

Members Present: Sheila Connor, Chair, Paul Paquin, John Meschino, Paul Epstein, Max Horn

Members Not Present: Sean Bannen, Elizabeth Fish

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

7:30pm Chair Connor called the meeting to order

7:35pm Spinnaker Island Discussion – Attendees: David Ray, Lawrence Hilliard, Philip Donohue

Mr. Ray requested to meet with the Commission to bring them up to date on the status of the on-going work that is being done on the wave attenuator. They have found a new system for replacing damaged portions of the wave attenuator. They will no longer be using a barge system. They plan to use a product that is intended to be used as a wave attenuator that is 13 feet wide by 60 feet long. They are 5 ½ feet deep and will float 4 feet under the water. These are guaranteed for a 30 year life span. They will install 4 of them instead of just 2 of the previously planned sections. It is their plan to remove 10 of the worst sections that are there now. They will be lifted, put on a truck for proper disposal. At the same time, they will use a crane to remove the old sections that have been left on site after coming out of the water. The barges that have been abandoned near the bridge will be sold or used on the west dock.

Mr. Ray will submit a request to amend the Order of Conditions.

7:50pm Atlantic Ave, Map 54/Lot 040 (SE35- 1219) Continuation of a Public Hearing on the Notice of Intent filed by Dana Sceviour for work described as construct single family home.
The Applicant requested a continuance.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 5/0/0;
It was **voted** to:
Continue the Public Hearing to July 9, 2013 at a time to be determined.

7:45pm 65 Harborview Road, Map 56, Lot 35 (SE35-1221) Opening of a Public Hearing on the Notice of Intent filed by Jeffrey Breen for work described as addition to the home.

Owner/Applicant: Jeffrey Breen

Representative: David Ray

Documents: Existing and Proposed Conditions Plan – Nantasket Survey Engineering – dated 6/3/2013

Mr. Ray presented the project that is to include an addition to the home and decks. They will also add a patio around the outside of the home. The existing patio will be removed.

The work will also include a small expansion of the driveway to allow access to the garage that is part of the addition. All work will be more than 10' off the coastal bank which is located at the flower garden. The deck will be located 20.6' off the coastal bank at it closest point and the addition will be 26' at its closest point.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 5/0/0;
It was **voted** to:
Close the Public Hearing and **approve** the project. The Order of Conditions was **signed**.

7:55pm N. Truro Street, nearest Map 47, Lot 22 (SE35-1216) Continuation of a Public Hearing on the Notice of Intent filed by William Horne for work described as extend roadway.

Owner/Applicant: William Horne

Representatives: Lenore White, Adam Brodsky, Neil Murphy

Abutters/Others: Steve Ivas, Stephen Etkind, Lloyd Emery, Kevin Conway, Kate Emery, Judy Dorner, Susan Etkind, Elizabeth Parkes, A. Horne, Judeth VanHamm

Documents: NOI Site Plan – Neil Murphy Associates, Inc - submitted at meeting (not stamped, no revision date)

TSS Removal Calculation Worksheet – dated 6/10-2013

Fire Department Correspondence - dated 6/23/2013

Division of Marine Fisheries – dated 6/11/2013

Revised Narrative

S. Connor signed certification stating that she has listened to an audio recording of the 5/28/13 hearing that she missed.

Ms. White submitted a revised plan indicating changes to the typical cross section for the roadway that was revised to match the DPW standards. The plan also showed additional details for the rain garden. The groundwater elevation in the Stormwater Report was determined by utilizing the depth of soil mottling. Ms. White submitted a revised TSS Removal Calculation Worksheet indicating that the street sweeping activity has been eliminated and the Total TSS Removal equals 90%. Ms. White submitted a letter from the Fire Department stating that the proposed dwelling was reviewed and has been inspected and approved for emergency services. A letter from Natural Heritage was submitted stating that the project will not adversely affect the resource area. Ms. White stated that there is no practical way to save the maple tree as it is in the road layout.

When asked about the difference in elevations in comparing plans, Ms. White stated that they are still working to resolve that issue.

The Commission asked Ms. White why there is a difference on plans and the location that the house is staked out on site. Mr. Brodsky stated that as part of the Zoning process they agreed to relocate and change the size of the house and increase the side setback. Ms. Herbst noted that the plan does not reflect that change and also that the front setback has been changed. Mr. Brodsky stated that the plans will be revised.

Ms. White stated that she had also submitted a revised narrative that was received via email by the Commission. The Commission had not previously received the plan submitted tonight by Ms. White. The plan is not stamped and does not show a revision date. The plan shows a change in the rain garden, indicating that the catch basin has been moved from the middle of the rain garden off to the side and a change in the discharge pipe. The Commission had also requested that a new plan be submitted with a larger scale for ease in reading which has not been done.

Ms. Herbst stated that at the site visit it was observed that the staking indicated that from the corner of the house to the edge of pavement is shown to have a 4' gap, the plan shows a 10' grass strip so it is unclear what is actually planned. Mr. Murphy stated that the strip will vary from 2' to 18' wide along the roadway. The Commission requested that when the plan is enlarged, the width of the strip should be shown throughout the roadway. The Commission asked if there a space between the roadway and the house; is there a driveway there? Ms. White stated that parking was going to be underneath the house. The Commission pointed out that the plan shows that the roadway ends and then there is a swale. Will the swale be driven over? Ms. White stated that the plan indicates a typical profile and does not show the detail for that area. For the area in question, the roadway will end and it will immediately transition to the gravel under the house. Ms. Herbst again questioned that if the roadway is crowned, how does the runoff enter the rain garden? If the roadway is crowned, wouldn't the water flow under the house? The plan shows a 2% slope and the question is how will

water from that side reach the rain garden? Ms. White and Mr. Murphy stated that the berm will direct the water to the rain garden. The Commission asked about the area of the roadway along the house where there is no berm. What happens to that water? Ms. White stated that any water that goes there will percolate into the gravel. Ms. White stated that the rain garden was designed to pick up 4,000 feet and they are actually only adding 1,900 square feet.

The Commission asked where plowed snow would be located. Ms. White stated that they believed that it could be placed in the turnaround area. Mr. Murphy stated that the width of the road is 40', and that a car has a turn radius of 35' to 36' and a truck has a turn radius of 44', a truck cannot make that turn. When asked again, when the snow is plowed, how will they assure that it doesn't go into the rain garden. Mr. Murphy stated that they are going to have to put it wherever they can put it. There is no other space available. Ms. Herbst stated that it is her understanding that the DPW would need a setback of perhaps 15' from the end of the roadway to keep snow out of the rain garden.

Mr. Brodsky stated that the road is being designed to the standards given by the DPW. If some relief could be offered, the width of the roadway could be changed thereby adding less impervious surface for water treatment. Mr. Brodsky stated that he didn't feel changing the road to unpaved would help as they are already meeting the stormwater re-charge standards. The Commission does not feel that it is up to them to request any changes in the standards for the road construction. A Commissioner stated he thought the road only had to be 22' feet wide. It was clarified that the proposal is for a paved road that is only 22' wide.

The Commission again added they must receive plans that are accurate, can be read and stamped. Mr. Brodsky stated that on the plans for the house and these plans the only difference is that the road plan shows the contours at 2' higher. He stated that the benchmarks are measured 2' different. They are aware that this issue must be resolved. Mr. Murphy stated that these plans are on NGVD 29 and the plan that was given to them was based on NGVD 29. Another plan showed a piece that showed contours that were not on NGVD, they were NAVD. They however stuck to the NGVD. The Commission responded that the difference between NGVD and NAVD is eight tenths of a foot; that does not explain the 2' difference in the plans. The question of the survey may be reviewed in the peer review.

The Commission questioned the statement in the narrative that said the project is not in the ACEC. Ms. White said that a final determination of the correct elevations will determine how much of the project is in the ACEC. Mr. Brodsky stated that even if the line changes and a larger portion of the project is in the ACEC, they still meet the performance standards. The Commission also questioned the use of the term rain garden it is more of a retention basin. The Stormwater guidance states that a rain garden needs to have 2-4 feet of material plus an additional 2 feet of separation from groundwater. The plans provided show only 1 foot of material. Ms. White stated that they have 30 inches from the bottom of the test pit. Ms. Herbst stated that with 2 feet to groundwater, the rain garden itself would need 2-4 feet of filtering material and your plan shows 12 inches and does not know how this would comply. The DEP Stormwater manual also states that grass filter strips can only extend 50 feet into the buffer zone. Their design is much closer to the wetlands. This would all need to be part of the peer review.

Ms. White stated they have designed it the best they can given the limited area that they have to work in. They are doing the best they can to treat the existing and proposed runoff to the extent practical. There may be some deficiencies, but they are really constrained with the roadway layout, the edge of the wetlands, and the neighboring properties. It does not meet every standard of the rain garden guidance, but it treats water and removes 90% of total suspended solids. Mr. Brodsky stated it will improve stormwater treatment because they are treating a larger area than they are building.

The Commission noted that the revised narrative changed the proposal from a roadway project to a roadway/driveway project, apparently in order to qualify for the riverfront exemption under 10.58 (4) (d) 3. The Commission pointed out that the project is to build a road within a public roadway. Mr. Brodsky argued that this is a semantic issue; the purpose of the project is to provide access to the house. Ms. White argued that the project is something in-between a driveway and a commercial structure, which is the other exemption the proponent claims.

Mr. Brodsky would like to receive a copy of the proposal for a peer review when it is received. It is his understanding that the list of items requested by the Commission is as follows: Clarification of contours, dated and stamped plan, size of grass strip and requirements near wetlands line, will storm water reach rain garden, snow removal location, locate house footprint, groundwater separation i.e. rain garden vs bio-retention basin, larger scale plan and details.

Abutter Comments:

L. Emery would like to go on record that he is opposed to extension of the road/driveway into the salt marsh or into the estuary.

S. Ivas reminded the Commission that at the previous hearing two plans were requested; one with detail of rain garden and one plan that was expanded. The Commission had also requested information regarding the rain garden materials and methods of construction. Other questions that remain unanswered are: who would be required to maintain the rain garden? Who is responsible for cleaning the catch basin in the rain garden? Who is the property Owner, who maintains it? Mr. Tocchio had stated that he would get that determination. Ms. Herbst added that the confusion is that in the filing, it was stated that Mr. Horne would maintain it. Has there been an agreement with the Town? Has he received permission from the Town to plow it? Mr. Ivas also asked if the document relating to the project being defined as redevelopment had been addressed by Mr. Tocchio. Ms. White stated that they believe that the project does meet the definition of redevelopment in part. Mr. Tocchio was also going to redraft information regarding the wastewater treatment. Ms. White answered that the sewer connections were approved as part of the house project. Mr. Ivas added other outstanding issues: there is still a question as to how 310 CMR 10.58 4 d exemption applies to the roadway. It is still unclear if the project requires Planning Board approval. What slows the rate of the water down after the discharge from the 4" pipe from the rain garden or will there be a problem there? Mr. Murphy stated that the design of the rain garden with soil under the catch basin should allow for a slow flow. He added that calculations had been submitted to prove this. Mr. Ivas added that the abutters had not received copies of the filing as requested. Mr. Brodsky stated that he would make sure that Mr. Ivas gets the plans. If other abutters would like copies, they can give their information to Mr. Brodsky.

J. VanHamm stated that this site is an integral part of the Weir River Woods and Weir River Estuary and is not meant to be an access to a home, potentially one that stands to damage the salt marsh. She would like this issue to go to Town Meeting so that the public can make a decision as to whether they want a private use or a public use for the right of way.

K. Conway stated that the distinction between whether the project is a roadway or a driveway is important because a roadway has a public safety issue. A roadway would have to be constructed to allow for the weight of emergency vehicles. He also questioned the statement that the sewer approval has been received. He feels that this plan is premature due to the fact that the Applicant has not been before the Planning Board and additional requirements may be added. Mr. Conway also stated that he disagrees with Mr. Brodsky that the proposed plan is a treatment of runoff. The natural treatment that is there now is 175 to 200 feet before it reaches the wetlands where it can percolate through the surface and that is the function. That is why we have buffer zones; that is why the road ends where it ends today. The area is very problematic and it is not realistic to think that you can set aside a small area for snow removal and think that that is going to work. What are you basing this on, how much snow? He has seen snow piled at the end of the road 6 or 7 feet high. That is not unusual, and private contractors are plowing. Their only interest is getting the road plowed and getting out, so he does not think that that is realistic to think that you can set aside a small area where you are going to put large volumes of snow that are contaminated with road salt. To think that this is not going to end up in the resource area is not realistic.

In response to a question from the Commission, Lenore White verified that they are no longer claiming the project qualifies as a limited project. Mr. Brodsky said the project has aspects of a driveway project and of a commercial structure. He described it as a hybrid – a very unusual project. He argued it would be a 'taking' if they are not allowed to build a home.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 5/0/0;

It was **voted** to:

Continue the Public Hearing to July 23, 2013 at a time to be determined.

9:15pm 35 Rockaway Avenue Map 43, Lot 62 (SE35-1220) Opening of a Public Hearing on the Notice of Intent filed by Edward & Judy LeNormand for work described as single family residence and driveway.

Owner/Applicant: Edward & Judy LeNormand

Representative: Steve Ivas

Abutters/Others: Alan Marks, Donald Moncevicz, Joanne Marks, Bernard Nunn (did not sign in)

Documents: Site Plan of Land – Perkins Engineering, Inc. – dated 6/25/2013

Foundation Plan – Labeled Progress 6/25/2013

Photographs submitted by – Bernard Nunn

Correspondence from Donald Moncevicz dated 6/25/2013

Mr. Ivas presented the project that is to include construction of a single family house in the buffer to Bordering Vegetated Wetlands (BVW) and a driveway over a portion of the BVW. Mr. Ivas submitted a revised site plan and also a colored plan that indicates the different aspects of the project. There is a culvert on the site that has an outlet to a swale that leads to another culvert across the street. This project is being proposed as a Limited Project. The permanent wetland impact is 148 square feet that includes the driveway and retaining walls which is allowed under 310 CMR 10.53 (e). Referring to the performance standards, Mr. Ivas stated that the driveway may not restrict the flow of water; therefore the existing culvert will be removed and replaced with a new culvert of the same size. They have minimized the impacts by proposing vertical walls along the driveway and making the driveway narrow at 11' wide which also includes the thickness of the walls. There are no other means of access to the site. The plan also calls for underground piping to heat the driveway. The Owner has approached the Town in an attempt to purchase adjacent property with no success. There is no area on the site for compensatory flood storage or mitigation. The site is within the ACEC therefore there is a higher performance standard. Mr. Ivas stated that the WPA Regulations state that the ACEC designation does not prohibit work affecting the BVW if the work can be authorized under any section of the Wetlands Protection Act regulations. He also referenced other sections of the regulations concerning Limited Projects.

The Commission asked if a bridge could be constructed where the driveway is planned. Mr. Ivas stated that they would investigate that possibility. They will also look into the possibility of using a metal grate as a bridge over the BVW.

Mr. LeNormand submitted the foundation plan. Mr. LeNormand stated that he would like to remove the least amount of ledge that is possible. The foundation will be pinned to the ledge.

Mr. LeNormand intends to replace the pipe in the culvert that is on his property. This area will need to be excavated for utilities to be brought on the site. It was noted that if further excavation was done it would add flood storage volume. Another option discussed is that the bridge could be elevated which would also allow for vegetation to grown under it.

Mr. Moncevicz submitted a document listing his concerns. He would like to see final contours on the site plan to determine the impact on his property. Would like to see elevations of the home, he does not want his view blocked. He also stated that he believes that there is a coastal bank on the property. Mr. Moncevicz stated that changes to the culvert should be on the plans. While on site, he could not locate wetland flags A2 and A7. He also stated that alternative access and reduction of the size of the house need to be addressed. The three utilities are not indicated on the plan.

Abutters raised comments regarding ledge removal, blocking of views, size of the home, methods of construction, storage of building materials and continued flooding.

The abutters were informed that the Commission does not take up matters regarding the size of a home or any obstruction of views.

In response to Mr. Moncevicz's questions, Mr. Ivas stated that there is no grading at the rear of the property planned. Mr. Ivas also stated that he believes that the coastal bank is diagonally across the street approximately 150 yards away. Mr. Ivas will provide more details regarding construction methods. Wetland flags A2 and A7 have been replaced. His response regarding the wetland fill, was that this was the only way to access the property.

Mr. Nunn submitted photos of flooding in the area that were taken by the Marks' over the last few years. Mr. Ivas could not authenticate that the pictures were of the same site and he was not there in 2009. Mr. Nunn speaking on behalf of the Marks' expressed their concerns that there may be increased flooding when BVW is filled. Mr. Nunn is aware that there is no other area to create BVW on the site. Mr. Nunn stated that the site falling within the ACEC raises the concerns regarding contamination to the reed marsh, lagoon and tidal flat and the Weir River Estuary. The main concern that he sees with the project is the footprint of the project and the closeness of the property to the BVW. He is also concerned that removal of ledge and use of construction vehicles on site will impact the BVW. Mr. Nunn expressed concern that 20% of the wetlands would be filled. Mr. Ivas stated that they do not anticipate removing any ledge below elevation 10. Mr. Ivas will provide more construction method details.

Mr. Ivas added that with regard to flooding, the majority of the site is ledge and they are changing impervious to impervious therefore there will not be any change in flooding. The only change will be approximately 300 square feet of the driveway. The limit of work can be delineated before construction begins.

Mrs. Marks voiced concern about flooding in her basement apartment, the Commission stated that the roadway was just barely above the high tide line and that they will likely continue to have flooding.

Mr. Moncevicz expressed concern that roof drainage has not been addressed. The Commission requested that drainage be addressed. Mr. Moncevicz expressed concern with issues that fall under zoning and was advised again that the Commission did not have jurisdiction over those matters. Mr. Moncevicz stated that he was putting the Applicant on notice "not to block him".

The Commission requested that the datum used on the plan be identified.

- Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 5/0/0;

It was **voted** to:

Continue the Public Hearing to July 9, 2013 at a time to be determined.

Requests for Certificate of Compliance

64 Holbrook - P. Epstein **Motion**, M. Horn **2nd**, vote 5/0/0; CoC **issued**

1151 Nantasket Avenue – No Action, need corrected plans

123A Atlantic Ave - P. Epstein **Motion**, M. Horn **2nd**, vote 5/0/0; CoC **issued**

New Business:

94 Salisbury violation –George Burke was scheduled to attend the meeting, however he did not attend.

Rosa ragosa question – Mr. Divito had contacted A. Herbst to ask if the Commission would be interested in receiving some Rosa ragosa that were being removed from 32 Reef Point. The Commission is happy to receive them. A possible location would be at R Street.

10:30pm Upon a **motion** by P. Epstein and **2nd** by M. Horn and a **vote** of 5/0/0;

It was **voted** to: Adjourn