



HULL CONSERVATION COMMISSION

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December 10, 2013

Members Present: Sheila Connor, Chair, Paul Paquin, John Meschino, Paul Epstein, Elizabeth Fish

Members Not Present: Max Horn, Sean Bannen

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

7:40pm Chair Connor called the meeting to order

7:40pm 135 Atlantic Avenue, Map 53, Lot 23 (SE35-xxxx) Opening of a Public Hearing on the Notice of Intent filed by Joanne A. Lannin for work described as dry fit 40-45' stone wall using 3' to 4' stone. The Applicant requested a continuance to January 14, 2014.

- Upon a **motion** by P. Epstein and **2nd** by J. Meschino and a **vote** of 5/0/0;
It was **voted** to:
Continue the Public Hearing to January 14, 2014 at a time to be determined.

7:48pm 68 Clifton Ave, Map 32/Lot 062 (SE-1230) Continuation of a Public Hearing on the Notice of Intent filed by Tim Doherty for work described as coastal bank stabilization and seasonal stairs.

A. Herbst informed the Commission that as requested at the meeting of November 12, 2013, David Ray has submitted revised plans dated December 6, 2013 and a narrative of the proposed armored toe construction for this project dated December 4, 2013.

Special Conditions were added as follows:

- If the current location of the bank changes before work commences, the applicant must confer with the Commission prior to starting work, as the Commission may choose to require that the applicant submit an amended plan.
- The Commission has provided to the applicant additional coastal bank plant recommendations, which the applicant has permission to substitute for those in the approved plan.
- The sand material used for the 8 cubic yards of annual beach nourishment shall match the material on the adjacent beach. A sample of the beach nourishment material must be presented to the Commission for approval in advance of its installation. The condition is ongoing and will not expire at the end of three (3) years.
- Upon a **motion** by P. Epstein and **2nd** by J. Meschino 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**.

7:52pm 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: Adam Brodsky, Lenore White

Abutters/Others: Kevin Conway, Elizabeth Parkes, Paul Gratta

Documents: Photographs submitted by K. Conway taken 12/06/2013

A. Brodsky - Drohan Tocchio & Morgan correspondence to J. Lampke dated 12/05/13

Existing Conditions Plan – Nantasket Survey Engineering – dated revised 08/22/13

Existing Condition Erosion Control & Demolition Plan – Strong Civil Design – dated 8/22/2013

Roadway Layout, Stormwater, & Utility Plan – Strong Civil Design – dated 8/22/2013

Stormwater Engineering Report – Strong Civil Design – dated revised 12/05/2013

Resource Area & Riverfront Area summaries

Mr. Conway addressed the Commission regarding his concern that the behavior of the Applicant's Representatives and Contractor at the previous meeting was inappropriate and bullying. Mr. Conway submitted photographs of the project site taken at high tide on 12/06/2013 to illustrate the conditions.

Adam Brodsky provided the Commission with a summary of changes that have been made since the previous hearing to include:

- added test pits and log data to the plans
- changed the gravel specifications to washed gravel 3/4 " to 1 1/2" with filter fabric 12" below grade
- changed asphalt curbing to concrete curb
- added 2' of media to the bioretention area
- added list of tasks under the construction pollution plan
- added "end of the road" markers delineating snow storage area
- checked the mean high tide data for accuracy
- changed the Operation and Maintenance Plan to reflect that Mr. Horne has agreed to maintain the Stormwater Management System (most likely would enter into a license agreement with the Town)

Mr. Brodsky stated that he has been in communication with Town Counsel regarding maintenance issues and has requested to meet with the Selectmen. Mr. Brodsky stated that they assumed that the Town would maintain/plow the road.

A. Herbst expressed concern that at the previous meeting the applicant stated the gravel turnaround areas would be removed from the plan since they were not required by the Fire Department; this would have removed the possibility of the gravel surfaces becoming impervious over time. Instead, a maintenance item has been added that the pervious areas would be checked every two years and that the gravel areas would be dug out and replaced if necessary. The Commission expressed concern that repeated excavation of the gravel areas would be harmful to the wetlands areas. Mr. Brodsky stated that their engineers believe that the gravel areas will remain pervious and no replacement would be necessary.

There is a conflict in what is required for a turnaround i.e. DPW (turnaround for a snow plow); Fire Department (none) and what the applicant is proposing. Mr. Brodsky stated Town Counsel provided him with the road standards that they need to comply with. Dead end streets require a turn around sized for emergency vehicles. Mr. Brodsky added that they are not prepared to seek waivers from the Planning Board for the design standards. He stated that they designed the road according to the Planning Board standards.

The concern Mr. Nyman raised is that the applicant did not include the gravel areas in the calculations (as impervious) and therefore it is not clear whether the rain garden is appropriately sized. Mr. Nyman's last statement to the Commission was that he still questions whether there is compliance with standards 4 and 6. Mr. Nyman also suggested that if the Commission believes that all other standards are met, than they could consider granting some leeway on the recharge standards.

A. Herbst read a portion of the Riverfront Area Preamble. In reviewing the General Performance Standards, the Commission questioned whether the applicant meets any of the exemptions they are claiming. In addition it was noted that the applicant had not claimed the exemption 10.58 (g) that exempts certain roads from the Riverfront standards. The project does not meet the standards set out by 10.58 (g), as the roadway was accepted prior to the state law referenced. In addition, the standard for an ACEC is that a project shall have no

adverse impact on the coastal resource areas. The Commission must determine if the project itself will have any significant adverse impact on the Riverfront Area and any adverse impact on the coastal resource areas.

Mr. Brodsky stated that DEP has granted a permit to construct a single family home in the Riverfront Area and you need access to that home; the regulations address that and anticipate that, so DEP will grant them access whether they characterize the access as a road or a driveway. He added that they are entitled to access and that when the Rivers Act was adopted, they specifically said that they are not going to restrict people's property rights to build a single family home, so they are pretty confident that the regulation is intended to allow them to have this access in the Riverfront Area; therefore they are only required to comply with the Riverfront Standards to the maximum extent feasible, which he believes they have done.

The Commission expressed concern that the project cannot be built without adverse impact, and that storm surges will damage the proposed stormwater treatment system. Lenore White responded that the stormwater treatment is an improvement over existing conditions.

The Commission and Mr. Brodsky again discussed the question of whether the project needs to have no significant adverse impact, or whether they simply need to show that they have met the standards to the maximum extent feasible. With regard to the roadway exemption in Section 6(g), Mr. Brodsky argued that although the roadway was approved in land court in 1921, well before the adoption of M.G.L. c. 41 Section 81 U, the Commission should assume that the language was meant to grandfather lots created before August 1, 1996.

Meschino made a motion to issue an Order of Conditions for the North Truro Street roadway project with the specific special orders to go along with it which the Conservation Agent can set up.

Epstein 2nd for the purposes of discussion.

The Commission had further discussion on the exemption in the Riverfront Area Section 4. (d) 1. The applicant acknowledged that they do not and cannot have 100 feet of undisturbed vegetation as required, but again argued they only have to meet the standards to the maximum extent feasible. The Commission noted the language that says the exemption in 4 (d) 1, can be claimed "only if" there is 100 feet of undisturbed vegetation.

- Upon a **motion** by J. Meschino to issue an Order of Conditions; **2nd** by P. Epstein and a **vote** of 2/3/0; the **motion** was **defeated**.

9:05pm Upon a **motion** by P. Epstein and **2nd** by E. Fish and a **vote** of 5/0/0;
It was **voted** to: Adjourn