



HULL CONSERVATION COMMISSION

253 Atlantic Avenue, 2nd floor

Hull, MA 02045

Phone: 781-925-8102

Fax: 781-925-8509

TUESDAY, March 5, 2019

Meeting held at Hull Town Hall, 2nd Floor

Members Present: Paul Paquin, Chair, Sean Bannen, Lou Sorgi, Chris Oliveri

Members Absent: Paul Epstein

Staff Present: Chris Krahforst, Conservation Administrator; Sarah Clarren, Assistant Conservation Administrator

Minutes: Upon a **motion** by C. Oliveri **2nd** by S. Bannen and a **vote** of 4-0;

It was **voted** to: Approve the Minutes of February 12, 2019 as drafted.

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7:40 Call to order

7:40 Plastic bag ban discussion

Jason Frady of Hull was present. He stated that he is working Samantha Woods and Sarah Das on a Citizens Petition for a Plastic Bag Ban Bylaw. He stated that given the Town's geography, it is necessary to implement a bag ban. He stated that the proposed bylaw was presented to the Board of Health the previous week and it obtained a Resolution of Support. He provided handouts to the Commission including the following: 1) 'Why Does Hull Need a Bag Bylaw?', 2) 'visual information regarding plastic bags (11 pgs), 3) 'Reduction of Single Use Plastic Bags in Hull proposed bylaw]. He stated that the proposed bylaw is similar to other plastic bag bans that have been implemented in Massachusetts. – Upon a **motion** by C. Oliveri, **2nd** by S. Bannen and a **vote** of 4-0; it was **voted** to **grant** a Resolution of Support.

7:50 196 Atlantic Ave., Map 51/Lot 031 Opening of a Public Hearing on the Request for Determination of Applicability filed by Jack Mitchell for work described as remove structure above FEMA compliant foundation and rebuild within exact footprint and existing footings.

Representatives: Jack Mitchell

Abutters/Others: none present

Documents: "Existing and Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – 1/11/2019
"196 Atlantic Avenue" – Duxborough Designs – 12/13/2018

J. Mitchell presented the proposed project. He stated that when he was considering purchasing the home, he was informed of a prior Order of Conditions to construct a new FEMA compliant foundation and home and therefore requested and was granted a Certificate of Compliance (CoC) for said previous Order. As part of the process, he had an as-built plan done for the work that was completed under the Order. He said that he performed his due diligence and was told by the Building Department that as long as the project remained in the same footprint which is a previous non-conforming structure, it wouldn't be an issue. After the CoC was issued, he closed on the home. He stated that his original intent was to not take down the entire structure, but discovered that the condition of the pre-existing home required demolition. J. Mitchell said that he had the home demolished by hand and no debris touched the ground, as it went straight into dumpsters. He stated that the home will be elevated to double the parking onsite from one to two spaces; there will be four feet of freeboard. He added that he obtained a curb cut approval from the Police Department earlier in the day. He said that C. Krahforst thought that the project needed to come back before the Commission even though the Building Department said it didn't need to be, to which the Commission said that other departments do not speak for the Conservation Commission. The Commission asked if work on the new home has started, to which J. Mitchell said no. The Commission asked if the foundation is changing at all, to which J. Mitchell said that they will be cutting into the foundation in the front for the garage. He said that there will be no other changes to the foundation or the lot.

A Commissioner questioned why a Notice of Intent was not filed, as it is a construction of a new home. Another Commissioner noted that the work will not take place on the ground. S. Clarren noted that per the Wetlands Protection Act, if there is digging, filling, removing, or working in a resource area, a Notice of Intent may be required. She expressed concern over the resource areas onsite, including a flood zone, buffer to a coastal bank, buffer to a vegetated wetland, and its proximity to an ACEC. J. Mitchell asked what triggers a Notice of Intent when no ground work is proposed and questioned if the Commission would require permits for shingling of a roof. S. Clarren responded that the Commission rarely issues permits for work on top of existing structures, but mentioned that the site is within 50' to a vegetated wetland. She read from the Wetlands Protection Act 310 CMR 10.03) Section C.1 regarding Activities

Subject to Notice of Intent Fees, which includes construction of a new home. A Commissioner responded that the project involves cutting into the foundation, to which J. Mitchell said the work is above ground. Another Commissioner said that a Notice of Intent should have been filed for demolition, but it is already down. J. Mitchell said the way the Building Department looked at the proposed project is that the Commission had previously issued an Order for the existing foundation and he completed the compliance of the Order; he said that he didn't bypass the process. A Commissioner said that there is already a pre-existing foundation which the home will be built upon. The Commission agreed that the site contains a variety of resource areas, but two Commissioners questioned if the home will have an adverse impact on them.

A Commissioner expressed concern over runoff issues and the construction process due to the size of the lot. J. Mitchell said that the home will be mostly pre-fabricated off-site. A Commissioner said that if the project came before the Commission as a NOI, it is likely that drywells would be required from the gutters. J. Mitchell said that no gutters are proposed, as no gutters were previously on the home, to which a Commissioner said that as years go by, homeowners should try to make reasonable changes to alleviate negative impacts of a home. A Commissioner said that under a RDA, the Commission is unable to regulate how a home is built or its design and that abutters were not notified. S. Clarren expressed concern that a precedent would be set, to which a Commissioner said that precedents are not set with a Board.

It was then noted that no driveways or walkways were shown on the plan, to which J. Mitchell said there is a pre-existing driveway. A Commissioner asked what would be where the foundation is opened up and noted that the area is shown as grass on the plan. J. Mitchell said that the water will continue to go where it has gone in the past and added that it's not grass, its weeds. J. Mitchell asked if he could move forward with the house and come back with a second landscaping plan, to which the Commission said that is not permissible under a RDA. J. Mitchell asked if these questions were raised in the previous Order, to which the Commission said that it is a new project and the house has since been removed. The Commission stated that the older Order was closed because a Certificate of Compliance was issued. It was questioned if the Order could be reopened, to which it was determined that Orders are only valid for three years and a CoC was issued. J. Mitchell asked why Chris Krahforst, Conservation Administrator, was not present for the hearing as he had not had an issue with the project; S. Clarren said that C. Krahforst is at a different meeting and added that neither she nor C. Krahforst are members of the Commission and therefore only provide guidance; she added that the documents she had read from are from the Wetlands Protection Act, which the Commission is tasked with enforcing. J. Mitchell asked if he has the right to build at his own risk, to which the Commission said that he may choose to do so, but would run the risk of running into legal trouble and would receive a stop work order. He said that he had been informed that if the Commission determined he needed a NOI, he would be able to begin work and file at a later date, to which the Commission said that information is not correct.

Upon a **motion** by L. Sorgi **2nd** by S. Bannen and a **vote** of 3-1 (C. Oliveri opposed);

It was **voted** to:

Close the Public Hearing and **issue** a Positive Determination of Applicability; the Determination of Applicability was **signed**.

8:10 98 Revere St., Map 25/Lot 088 Opening of a Public Hearing on the **Request for Determination of Applicability** filed by **John and Nancy Lenhart** for work described as **replace and extend existing deck over existing asphalt**.

Representatives: John and Nancy Lenhart

Abutters/Others: none present

Documents: "Existing and Proposed Conditions Plan" – Nantasket Survey Engineering, LLC – 12/18/2018

J. Lenhart introduced the proposed project which involves the demolition of the existing deck and rebuilding and extending a new deck over existing asphalt.

Upon a **motion** by S. Bannen **2nd** by L. Sorgi and a **vote** of 4-0;

It was **voted** to:

Close the Public Hearing and **issue** a Negative Determination of Applicability; the Determination of Applicability was **signed**.

8:12 121 Hampton Cir., Map 35/Lot 144 (SE35-1462) Opening of a Public Hearing on the **Notice of Intent** filed by **Kara Tondorf** for work described as **construct 11.5' x 24' addition, 12'x14' deck, one car driveway, and fence**.

Representatives: Kara Tondorf

Abutters/Others: none present

Documents: "Site Plan" – Perkins Engineering, Inc. – 1/31/2019 (annotated)

"Renovations/Addition" – 2/11/2019

K. Tondorf presented the proposed project. She said that she understands the sensitivity of the resource areas and the flood plain. The proposed addition will be FEMA compliant. The foundation will also be FEMA compliant. The proposed side fence will be chain linked or a picket fence. S. Clarren said that the Commission generally issues a Special Condition requiring 50% flow-through, so water will not be restricted. The Commission asked what is currently in the area where the driveway is proposed, to which K. Tondorf said it is grass. K. Tondorf said the driveway will be permeable; the Commission asked K. Tondorf to annotate the plan to state such. S. Clarren noted that the proposed deck may not comply with the Zoning Bylaws, to which K. Tondorf said it does not and will be applying with the Zoning Board of Appeals for the deck. S. Clarren then asked if the tree in the front of the property would remain, to which K. Tondorf said that it likely won't. S. Clarren suggested that if it is to be removed, the applicant should first confirm with the Tree Warden if it is a Public Shade Tree. She added that the Commission may want to consider having another tree planted in its place, given its size and its positive impacts on/for the resource areas. A Commissioner added that at the MACC Annual Conference, they were informed that trees are excellent carbon sequesters.

Three Special Conditions were added as follows:

- 1) No fill is permitted as part of this project; the grade must remain the same as shown on the approved plan.
- 2) The permeable parking area must remain permeable in perpetuity
- 3) The fence is to be constructed so that it is 6" off the ground and is 50% flow through.

Upon a **motion** by S. Bannen **2nd** by L. Sorgi and a **vote** of 4-0;

It was **voted** to:

Close the Public Hearing and **approve** the Order of Conditions with the above listed Special Conditions. The Order of Conditions was **signed**.

8:26 163 Nantasket Ave, Map 38/Lot 024 (SE35-1460) Opening of a Public Hearing on the Notice of Intent filed by **Steve Austin** for work described as **construction of new ~7300 sf mixed use building. The applicant has requested a continuance until March 26, 2019 at a time TBD.**

- Upon a **motion** by S. Bannen **2nd** by L. Sorgi and a **vote** of 4-0;

It was **voted** to:

Continue the Public Hearing to 03/26/2019 at a time to be determined.

Certificate of Compliance Requests

36 Cadish Ave – no action

Continued and New Business

(new): Application to join the Commission: Anne Lemkin was present for the meeting; she stated that she submitted an application to join the Conservation Commission.

MACC Annual Conference, March 2nd Worcester: S. Clarren and P. Paquin, Chair stated that they attended the MACC's Annual meeting, which had multiple workshops of interest/relevance to the Conservation Commission. S. Clarren stated that when the presentations are posted, she will share them with the entire Commission. The Commission was also reminded that they are able to bring in a 'MACC expert' to provide small trainings. P. Paquin reiterated that at the conference he learned the importance of trees in sequestering carbon. He added that dead trees may need to be removed, but other trees should remain onsite. S. Clarren then added that other municipal Commissions are active in requiring mitigation plantings and/or protecting trees with proposed projects. She added that trees provide wildlife habitat and may reduce water onsite, both of which fall under the Commission's purview. P. Paquin added that the training suggested when an applicant is removing large Norway Maples, even though they are an invasive species, that additional native vegetation be done. S. Clarren then said during a training she attended, it was mentioned that the Commission can require mitigation for a proposed project; if an applicant is constructing an addition, it is increasing impervious cover onsite and therefore, the Commission could require mitigation for the impacts. She added that she also attended a workshop on the Municipal Vulnerability Preparedness (MVP) Program, which allows a municipality to apply for grants to complete projects to increase its resilience and reduce its impacts to climate change. These projects are identified during a Community Resilience Building Workshop and a community listening session, which C. Krahforst is currently hosting (3/5/19). She added that the state gives preference to completing Nature-Based Solution projects. A. Lemkin asked what Nature-Based Solutions are, to which S. Clarren said that a project that preserves and enhances a dune, instead of a construction of a revetment is considered a Nature-Based Solution.

(C. Krahforst arrived at 8:35PM)

(new) MassFM – 4/11/2019: S. Clarren said that there are free trainings provided by the MA Association for Floodplain Management on 4/11.

(new) 3/7-MACC Speaker: The Commission was reminded that Cohasset is having a speaker from MACC provide a combination of Fundamentals Course Unit 101 "Overview of Conservation Commissions, Organizational structures and

authority” and Unit 102 “The Wetlands Protection Act Fundamentals, Process and Procedures” training and neighboring Commissions have been invited.

Violations and Compliance issues

DEP Superseding Determination of Applicability for sandbags on Town property adjacent to 12 Lynn Ave: C. Krahforst stated that DEP reviewed and issued a Determination regarding the appeal of the Commission’s Positive Determination of Applicability. He added that during a site visit, although the project involves deflecting water, the Notice of Intent process may be inappropriate; just because there is a Superseding Order does not grant approval of the project. P. Chaput of 12 Lynn Ave said that the letter does not state that the project deflects water, to which C. Krahforst said the deflection of water came up in a conversation. P. Chaput said that sandbags are exempt from the Wetlands Protection Act (WPA); she is trying to stop debris coming off of someone’s property. The Commission asked how they could help, to which P. Chaput said that she wants someone to stop debris [note that she had brought in debris, but due to space constraints in the office, it was not taken as part of the record]. The Commission noted that the area in question is Town property and therefore a resident cannot do what they want on Town property. P. Chaput said that there is a Town Bylaw regarding deposits on sidewalks/roads and the debris is being deposited from a neighbor onto her yard and she wants to stop it. A Commissioner said that they live in a low lying area and after storm events, they go out and clean the area in front of their yard from accumulation of sand and debris; it’s a natural occurrence. P. Chaput said the debris began after the neighboring home was constructed; the Commission responded by stating that they closed the complaint, and Order, regarding the construction of the neighboring home and concluded that the spot grades match pre and post-construction. It was added that the Town did install a drywell in front of P. Chaput’s house to alleviate any alleged increase runoff. P. Chaput said that the debris is clearly from the abutting home, to which a Commissioner noted that the abutting property parks on the lawn which disturbs the grass, but the Commission doesn’t have jurisdiction to tell a person to stop parking on grass. P. Chaput said a berm was installed, but it has been flattened. The Superseding Determination of Applicability cover letter was read aloud for the record. A Commissioner noted that the area in question is a Town Right of Way, so it is likely a DPW issue; the DPW would need to request permission to do any further work in the area. It was added that if there is some citizen action on Town property, then it is up to the Town to enforce its rights; work in the Right of Way would need to be done by the Town and depending on its extent, it may need to be permitted through the Commission.

8:58 Upon a **motion** by C. Oliveri and **2nd** by S. Bannen and a **vote** of 4-0;
It was **voted** to: Adjourn.