

# REQUESTS FOR DETERMINATION

Paul C. Shepard et al

41 Nonantum Ave

(87-41)

**REQUEST FOR DETERMINATION  
OF APPLICABILITY**

For House Construction and Landscape Features

At

41 Nonantum Ave.  
Nantucket, MA

March 2016

Prepared for

**Paul C. Shepard et al**

By

**BLACKWELL & ASSOCIATES, Inc.**  
Professional Civil Engineers & Land Surveyors  
20 Teasdale Circle  
Nantucket, MA 02554  
508-228-9026



**Property Information**

**Property ID** 87 41  
**Location** 41 NONANTUM AV  
**Owner** SHEPARD PAUL C ETAL



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015





# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A. General Information

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Paul C. Shepard et al

Name

paulcshepard@yahoo.com

E-Mail Address

523 First St.

Mailing Address

Winston Salem

City/Town

NC

State

27101

Zip Code

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Blackwell & Assoc., Inc.

Firm

Jeffrey Blackwell

Contact Name

jeff@blackwellsurvey.com

E-Mail Address

20 Teasdale Circle

Mailing Address

Nantucket

City/Town

508-228-9026

Phone Number

MA

State

02554

Zip Code

Fax Number (if applicable)

## B. Determinations

1. I request the Nantucket Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Nantucket

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

41 Nonantum Ave	Nantucket
Street Address	City/Town
87	41 Portion
Assessors Map/Plat Number	Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

The project area is a vacant lot in the Surfside area just east of the Fisherman's beach parking area.

- c. Plan and/or Map Reference(s):

Site Plan To Accompany Request For determination of Applicability, Blackwell & Assoc., Inc.	March 16, 2016
Shepard Residence by Twig Perkins, Inc. architectural plans	12/12/2015
Title	Date
Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

The proposed project is construction of a single family home, driveway, septic system and associated landscaping. A 25' undisturbed buffer will be maintained along the top of the coastal bank.



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

---

---

---

---

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

---

---

---



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

### D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Paul C. Shepard

Name

523 First St.

Mailing Address

Winston Salem

City/Town

NC

State

27101

Zip Code

Signatures:

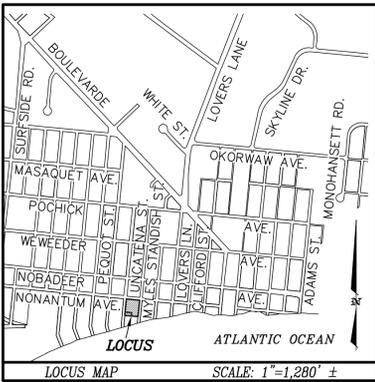
I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Jeff Releo, Agent  
Signature of Applicant

3-18-2016  
Date

Jeff Releo  
Signature of Representative (if any)

03/16/2016  
Date



NOTE: SEPTIC SYSTEM AND WELL LOCATIONS SHOWN HEREON ARE BASED UPON RECORD FILES AT THE NANTUCKET HEALTH DEPARTMENT.

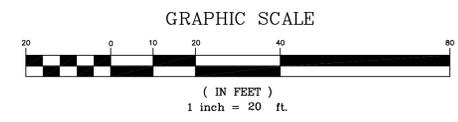
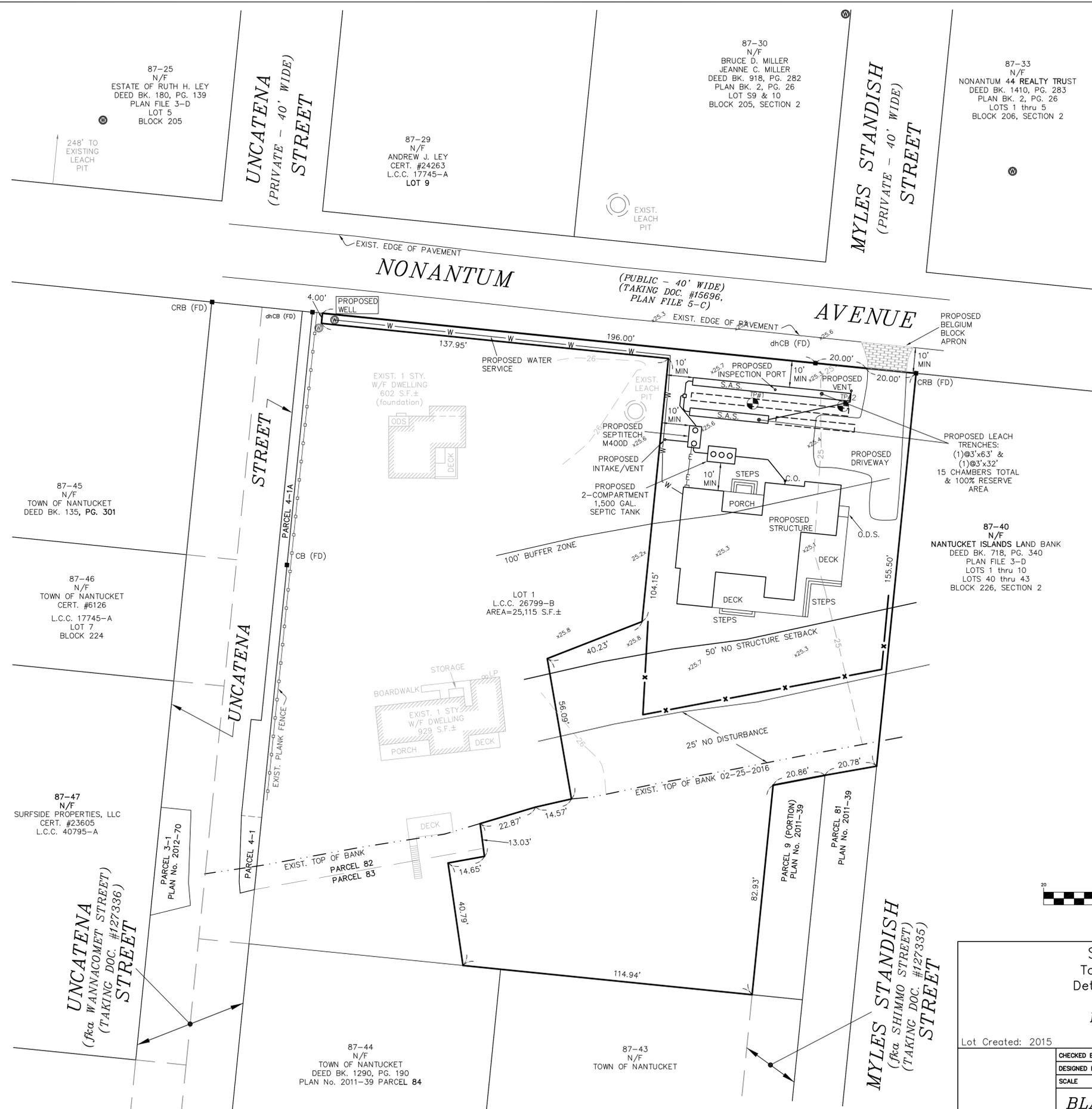


**LEGEND**

- dhCB (FD) ■ DENOTES CONCRETE BOUND WITH DRILLHOLE FOUND
- CB (FD) ■ DENOTES CONCRETE BOUND FOUND
- CRB (FD) ■ DENOTES COUNTY ROAD BOUND FOUND
- ⊙ DENOTES EXISTING WELL
- C.O. DENOTES PROPOSED CLEAN OUT
- S.A.S. DENOTES PROPOSED SEPTIC LEACH TRENCH
- — — DENOTES PROPOSED SILT FENCE



DIRECTION OF GROUNDWATER FLOW PER H.W.H. MAP #2



**OWNER INFORMATION**

PAUL C. SHEPARD et al.  
 CERT. OF TITLE #23925  
 L.C.C. 26799-A  
 ASSESSOR'S MAP 87, PARCEL 41  
 #41 NONANTUM AVENUE  
 DEED BK. 1405, PG. 4  
 PLAN No. 2012-70, PARCELS 4-1A & 9-1  
 DEED BK. 1392, PG. 231  
 PLAN No. 2012-70, PARCEL 4-1  
 PLAN No. 2011-39, PARCELS 80, 82 & 83  
 REFERENCE: DEED BK. 1392, PG. 218  
 EASEMENT AREAS A, B & C

**SITE PLAN OF LAND**  
 To Accompany Request for  
 Determination of Applicability  
 PREPARED FOR  
**PAUL C. SHEPARD, et al**  
 #41 NONANTUM (PORTION)

Lot Created: 2015

CHECKED BY	ADG/JLB	ASSESSOR MAP: 87	PARCEL: 41(PORCION)
DESIGNED BY	CLR	DRAWN BY	CLR
SCALE	AS NOTED	JOB NO.	B7472
		DATE	03/16/16
		SHEET:	1 OF 1

**BLACKWELL & ASSOCIATES, INC.**  
 20 TEASDALE CIRCLE - NANTUCKET, MA 02554  
 (508)228-9026 FAX (508)228-5292 **B7472**

# MINOR MODIFICATIONS

Cliff ACK Realty TR

96 Cliff Road

(41-15)

SE48-2066



P.O. Box 3627, Nantucket, Massachusetts 02584-3627  
Tel. (508) 228-0240 Fax (508) 228-9856  
www.nantucketsurveyors.com  
nslinfo@nantucketsurveyors.com

April 1, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

Re: Minor Modification Request  
D.E.P. File No SE48-2066  
Applicant: Steven L. Cohen, Trustee Cliff ACK Realty Trust  
96 Cliff Road  
Map: 41 Parcel: 15

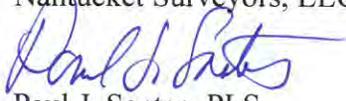
Dear Commission Member,

On behalf of the applicant, Nantucket Surveyors LLC is requesting a Minor Modification to incorporate a revised Landscape Plan to the file and remove the existing tree as indicated thereon. The project was issued an Order of Conditions for the construction of a residential dwelling, pervious driveway, construction of onsite sewage disposal facilities and associated grading within the buffer zone to an isolated vegetated wetland (local jurisdiction only), bordering vegetated wetland and vernal pool habitat on April 14, 2008 (Permit valid until April 14, 2017). The project was also issued a Minor Modification Request for the changing of the previously approved MicroFAST Treatment System to a Septitech Engineered System, Model Septitech Processor M400 on May 25, 2011, a Minor Modification Request for the existing landscaping on November 9, 2011, and an Amended Order of Conditions Request to construct a modified version of the previously approved residential dwelling and associated site improvements on July 9, 2014.

Work permitted is as indicated on the Findings and Additional Conditions attached hereto.

Thank you for your attention to this matter. If you have any questions, please contact our office.

Sincerely,  
Nantucket Surveyors, LLC

  
Paul J. Santos, PLS  
Agent for the Applicant

Enclosure: Two (2) copies of Landscape Plan dated March 18, 2016  
One (1) filing fee to the Town of Nantucket \$25.00

CC: Steven L. Cohen, Trustee of Cliff ACK Realty Trust

Office located at 5 Windy Way • Nantucket, MA 02554

Land Surveying • Topographic Surveys • Civil Engineering • Construction • Marine • Environmental Permitting



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**WPA Form 7 – Extension Permit for Orders of Conditions**

SE48-2066

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by DEP

**A. General Information**

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Steven L. Cohen Trustee (Cliff ACK Realty Trust)

Name

7 Laurus Lane

Mailing Address

Newton

City/Town

MA

State

02459

Zip Code

2. Property Owner (if different):

Same As Applicant

Name

Mailing Address

City/Town

State

Zip Code

**B. Authorization**

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:

04/14/2015

Date

Issued by:

Nantucket

Conservation Commission

for work at:

96 Cliff Rd

Street Address

41

Assessor's Map/Plat Number

15

Parcel/Lot Number

recorded at the Registry of Deeds for:

Nantucket

County

1459

Book

321

Page

Certificate (if registered land)

is hereby extended until:

04/14/2017

Date

Date the Order was last extended (if applicable)

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

This Extension Permit must be signed by a majority of the Conservation Commission and a copy sent to the applicant and the appropriate DEP Regional Office (<http://www.mass.gov/dep/about/region/findyour.htm>)

Signatures:

03/18/2015

Date

[Handwritten signatures: Gordon, Saul Oktaf, Ernest Steunawa, Dawn W. Lydon]

[Handwritten signatures: Andrew Bennett, Nick G. Glau]



Bk: 1475 Pg: 196 Page: 1 of 2  
Doc: EP\_03/19/2015 11:50 AM



**Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands**

DEP File Number:

**WPA Form 7 – Extension Permit for Orders of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**SE48-2066**  
Provided by DEP

**C. Recording Confirmation**

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Conservation Commission.

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach this page and submit it to the Conservation Commission prior to the expiration of the Order of Conditions subject to this Extension Permit.

To:

\_\_\_\_\_  
Conservation Commission

Please be advised that the Extension Permit to the Order of Conditions for the project at:

\_\_\_\_\_  
Project Location

\_\_\_\_\_  
DEP File Number

has been recorded at the Registry of Deeds of:

\_\_\_\_\_  
County

for:

\_\_\_\_\_  
Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Book

\_\_\_\_\_  
Page

If recorded land the instrument number which identifies this transaction is:

\_\_\_\_\_  
Instrument Number

If registered land, the document number which identifies this transaction is:

\_\_\_\_\_  
Document Number

\_\_\_\_\_  
Signature of Applicant

MAHTUCKET COUNTY Received & Entered  
Attest: Jennifer H. Ferris, Registrar of Deeds



FINDINGS and ADDITIONAL CONDITIONS

**Kristen Hanley**

DEP FILE NUMBER SE48-2066

ASSESSOR'S MAP 41, PARCEL 15

96 Cliff Road

UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT  
(MGL CHAPTER 131, SECTION 40)  
AND THE WETLANDS BYLAW OF THE TOWN OF NANTUCKET  
(CHAPTER 136)

This Order of Conditions permits the construction of a residential dwelling, pervious driveway, construction of onsite sewage disposal facilities and associated grading within the buffer zone to an isolated vegetated wetland (local jurisdiction only), bvw and vernal pool habitat. A waiver is required, and has been granted, for the construction of the onsite sewage disposal leaching facilities (including retaining walls) within 100' of the isolated vegetated wetland. **This Order is amended on 7/9/2014 to include a revised dwelling design and revised grading, landscaping and utilities. These changes are reflected on the Amended Plan of Record: Site plan to Accompany an Amended Order of Conditions, dated 6/20/2014 and stamped by Dale MacKinnon, P.E.**

FINDINGS

1. Applicant Name Kristen Hanley DEP File Number SE48-2066.
2. This Order of Conditions is being issued based upon strict accordance with the information submitted in the Notice of Intent dated 9/6/08 with attachments and the Plan of Record (Sheets 1 and 2) dated as revised on 4/4/08 stamped by Dale MacKinnon. Also considered was other pertinent supplemental information including but not limited to:
  - Nantucket Surveyors Plan titled Conventional Title V System dated as revised 4/4/08
  - Nantucket Surveyors Plan titled Watershed Plan: Proposed Conditions dated as received 4/4/08 with accompanying narrative and data entitled Drainage Calculations for a Proposed Single Family Residential Lot, 96 Cliff Road
  - Nantucket Surveyors Plan dated 4/2/04 titled Groundwater Map 96 Cliff Road with attached narrative dated 4/4/08
  - Letters from Nantucket Surveyors dated 11/16/07 and 4/4/08
  - DEP Bio-Microbics, Inc Renewal of Certification for General Use provided by applicant
  - Nantucket Surveyors Septic Alternatives Narrative dated as received 4/4/08
  - Copy of Article 52 from the Town of Nantucket 2006 Annual Warrant
  - Letter from Vaughan, Dale, Hunter, Stetina and Beaudette dated 4/4/08
  - Letter from Philbrick and Avery LLP dated 11/28/07

- Letter from Nantucket Land Council, Inc. dated 4/7/08 with attachment
- 3. Areas subject to protection/regulation are isolated vegetated wetland (local jurisdiction only), vernal pool habitat, vegetated wetland and their buffer zones.
- 4. This Order is in accordance with a vote by the Nantucket Conservation Commission to close the public hearing on 4/9/2008 and a vote to issue Orders taken by the Commission on 4/9/2008.
- 5. This Order permits the construction of a residential dwelling, pervious driveway, construction of onsite sewage disposal facilities and associated grading within the buffer zone to an isolated vegetated wetland (local jurisdiction only), bvw and vernal pool habitat..
- 6. A waiver is necessary, and has been granted, for construction of septic leaching facilities within 100' of the isolated vegetated wetland and construction of the associated retaining wall within 50' of the isolated vegetated wetland.
- 7. The isolated vegetated wetland is less than 5000 sq. ft. and as such is not jurisdictional as isolated land subject to flooding under MGLCh131s40 and 310CMR10.00.
- 8. The vernal pool habitat shown on the Plan of Record has been documented by the applicant but has not been certified by the Massachusetts Natural Heritage and Endangered Species Program as of 4/9/08.
- 9. The applicant has provided evidence from a credible source that dominant groundwater flow across the site is from the north toward the south. Therefore groundwater flows toward the bvw and vernal pool habitat and away from the isolated vegetated wetland.
- 10. The Commission finds that the applicant has provided evidence from a credible source that there are no reasonable alternatives for the placement of the onsite septic leaching facilities to the location as shown on the Plan of Record with respect to the 100' setback from the isolated vegetated wetland.
- 11. The Commission finds that the applicant has met the burden of proof necessary with respect to the proposed onsite sewage disposal design incorporating a 50% reduction in leaching field area for compliance with Title 5.
- 12. The Commission finds that the leaching facilities component of the project as permitted, with waivers, will not adversely impact public and private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution, fisheries, shellfish, wildlife, scenic views and recreation. Specifically The septic leaching facilities are not located within 100 feet of or within the recharge to private or public drinking water supplies; are located downgradient of the groundwater recharge zone for the isolated vegetated wetland and so will not result in groundwater flow to the isolated vegetated wetland that could impact water quality, water pollution, fisheries, shellfish, wildlife and/or recreation; will not adversely impact fisheries, shellfish or wildlife in the isolated vegetated wetland as none have been documented to be present; will not adversely impact flood control, erosion control or storm damage prevention as ground and surface water flow from the septic leaching facilities does not fall within the recharge zone to the isolated vegetated wetland; and the septic leaching facilities will not adversely impact wetland scenic

views of the isolated vegetated wetland as these facilities are on private land and separated from the isolated vegetated wetland by a public street and public bike path. Therefore, the project as permitted meets the Nantucket Wetlands Protection Bylaw and Regulations waiver provisions.

**In addition to the above referenced GENERAL CONDITIONS the Commission has found it necessary to include the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136. The above listed General Conditions and Findings are automatically part of this Order of Conditions.**

#### ADDITIONAL CONDITIONS

18. Prior to the start of work the applicant shall submit the vernal pool assessment report and data to the Massachusetts Natural Heritage and Endangered Species Program for certification of the documented and mapped vernal pool habitat.
19. No changes or repairs to the onsite sewerage disposal system leaching facilities shall be allowed without the filing of an Amended Order of Conditions request or a new Notice of Intent.
20. Should the site be allowed to connect to a municipal sewer system, the applicant shall file a minor modification request.
21. No equipment, materials or debris shall be stored within 50 feet of the vegetated wetland or within 75 feet of the vernal pool habitat.
22. All proposed and/or repaired lawn areas shall be underlain with a minimum of 6" of organic topsoil.
23. Prior to the start of work the applicant shall submit a detailed planting plan to the Commission office for review and approval.

#### **WAIVERS UNDER THE NANTUCKET WETLANDS BYLAW/REGULATIONS:**

The Commission hereby grants a waiver to Section 3.02 (B)(1 & 4) of the Wetlands Protection Regulations of the Town of Nantucket, under the Wetlands Bylaw (Chapter 136), which states that all structures which are not water dependent shall maintain at least a 50 foot buffer to a vegetated wetland and all leaching facilities shall be at least 100' from a vegetated wetland. The Commission finds that there are no reasonable alternatives to the work (leaching facilities and retaining wall), that the work as permitted will not adversely impact the interests identified in the Bylaw (leaching facilities, retaining wall) and that the work (retaining wall) is separated from the vegetated wetland by a town street. Therefore a waiver is granted under the authority of Sections 1.03(F)(2) and 1.03(F)(3)(a and c ) of the Wetlands Protection Regulations for the Town of Nantucket.

**96 Cliff Road**  
**Applicant: Steven L. Cohen, Trustee Cliff ACK Realty Trust**



View of 96 Cliff Road from Cliff Road



View of Proposed Dwelling Location



Collis

5 Galen Ave

(29-122)

SE48-2815



April 1, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554  
\*\*By Hand Delivery\*\*

Re: Minor Modification  
5 Galen Ave - Map 29 Parcel 122  
MassDEP File No. SE48-2815

Dear Commission Members,

I am writing to request the issuance of a Minor Modification for the referenced project. Attached for review are a site plan, a front-page copy of the Order of Conditions, and the appropriate filing fee.

The Applicant would like to install a subsurface propane tank in place of above ground tanks. This tank will be properly anchored into the ground to resist uplift from hydrostatic force. These proposed changes are no closer than twenty-five feet to the wetland resource area. The work is proposed within the previously approved limit of work. The proposal will have no adverse impact on the interests protected by the Commission. I plan to attend the public hearing on this matter to address any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Arthur D. Gasbarro".

Arthur D. Gasbarro, PE, PLS, LEED AP

Cc: M. Leighton Collis

CURRENT ZONING CLASSIFICATION:  
Residential 1 (R-1)

EXISTING:  
4,896 S.F.F.  
MINIMUM LOT SIZE: 5000 S.F.  
50 FT. SEE PLAN  
FRONT YARD SETBACK: 10 FT. SEE PLAN  
REAR/SIDE SETBACK: 5 FT. SEE PLAN  
GROUND COVER %: 30 %  
20.3% F.

SITE BENCHMARK:  
CONCRETE BOUND  
WITH DRILL HOLE  
EL. = 3.04  
REFERENCE '34 HTL.

29-125  
N/F  
N.L.B.

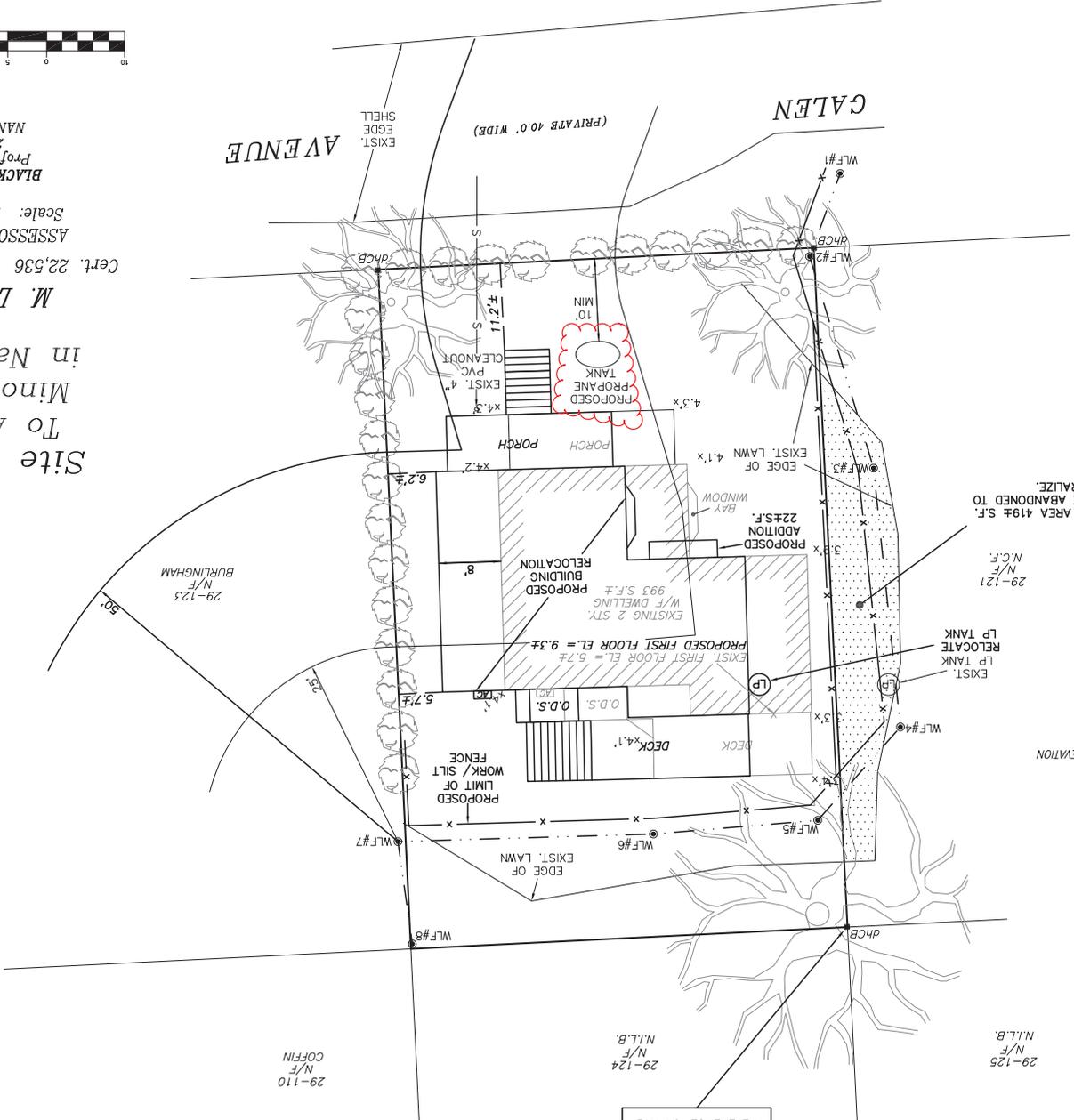
29-124  
N/F  
N.L.B.

29-110  
N/F  
COFFIN

**LEGEND**

- DENOTES CONCRETE BOUND
- DENOTES OUTDOOR SHOWER
- DENOTES WETLAND FLAG FOUND
- DENOTES EXIST. GRADE SPOT ELEVATION
- DENOTES EXIST. 5' WIDE PRIVET
- S—S— DENOTES EXIST. SEWER

29-121  
N/F  
N.C.F.  
LAWN AREA 419± S.F.  
TO BE ABANDONED TO  
NATURALIZE.



**Site Plan of Land  
To Accompany A  
Minor Modification  
in Nantucket, MA  
Prepared for  
M. LEIGHTON COLLIS  
L.C. Plan 37064-A, Lot 1  
Cert. 22,536**

ASSASSOR'S MAP 29, PARCEL 122  
Scale: 1" = 10'  
REVISED: APRIL 1, 2016  
BLACKWELL & ASSOCIATES, Inc.  
Professional Land Surveyors  
20 TEASDALE CIRCLE  
NANTUCKET, MASS. 02554  
(508) 228-9026



1 inch = 10 ft.  
( IN FEET )

**NOTES:**  
LOCUS IS WITHIN LAND SUBJECT  
TO COASTAL STORM FLOWAGE.  
LOCUS IS SERVED BY MUNICIPAL  
WATER AND SEWER SERVICE.





Cert: 22536 Doc: OOC  
Registered: 09/10/2015 03:34 PM



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

### WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48- 2815  
MassDEP File #

eDEP Transaction #  
Nantucket  
City/Town

#### A. General Information

1. From: Nantucket  
Conservation Commission
2. This issuance is for (check one):  
a.  Order of Conditions b.  Amended Order of Conditions
3. To: Applicant:
- M. Leighton Collis  
a. First Name b. Last Name
- c. Organization  
82 Charles St  
d. Mailing Address
- Boston MA 02114  
e. City/Town f. State g. Zip Code
4. Property Owner (if different from applicant):
- Same As Applicant  
a. First Name b. Last Name
- c. Organization
- d. Mailing Address
- e. City/Town f. State g. Zip Code
5. Project Location:
- 5 Galen Avenue Nantucket  
a. Street Address b. City/Town
- 29 122  
c. Assessors Map/Plat Number d. Parcel/Lot Number
- Latitude and Longitude, if known: 41d 17' 26.1" 70d 05' 58.4"  
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5 – Order of Conditions**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48- 2815  
MassDEP File #

eDEP Transaction #  
Nantucket  
City/Town

**A. General Information (cont.)**

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Nantucket

22536

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates:                      07/31/15                      08/19/2015                      08/19/2015  
   a. Date Notice of Intent Filed                      b. Date Public Hearing Closed                      c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Site Plan to Accompany A Notice of Intent

a. Plan Title

Blackwell & Associates, Inc

Jeffrey Blackwell

b. Prepared By

07/31/2015

c. Signed and Stamped by

1" = 10'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

**B. Findings**

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a.  Public Water Supply      b.  Land Containing Shellfish      c.  Prevention of Pollution  
d.  Private Water Supply      e.  Fisheries      f.  Protection of Wildlife Habitat  
g.  Groundwater Supply      h.  Storm Damage Prevention      i.  Flood Control  
j.  Wetland Scenic Views (bylaw)      k.  Recreation (Bylaw)

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

# CERTIFICATES OF COMPLIANCE

Raab

8 Second Way

(55-664)

SE48-1666



**WPA Form 8A – Request for Certificate of Compliance**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Project Information**

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

1. This request is being made by:

Maiza Eloy/ Today Real Estate  
Name

1533 Falmouth Rd  
City/Town

MA  
State

02632  
Zip Code

508-360-5472  
Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Venessa Raab  
Applicant

11/07/2003  
Dated

SE48-1666  
DEP File Number

3. The project site is located at:

8 Second Way  
Street Address

Nantucket  
City/Town

55  
Assessors Map/Plat Number

96  
Parcel/Lot Number

Property Owner (if different)

Nantucket  
County

843  
Book

171  
Page

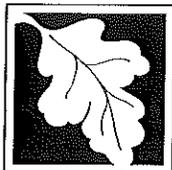
Certificate (if registered land)

5. This request is for certification that (check one):

the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 8A – Request for Certificate of Compliance**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

Provided by DEP

---

### A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

Yes      If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

No

---

### B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

CURRENT ZONING CLASSIFICATION:  
Residential 1 (R-1)

EXISTING:

MINIMUM LOT SIZE:	5000 S.F.	7,629± S.F.
MINIMUM FRONTAGE:	50 FT.	SEE PLAN.
FRONT YARD SETBACK:	10 FT.	SEE PLAN.
REAR/SIDE SETBACK:	5 FT.	SEE PLAN.
GROUND COVER % :	30 %	SEE PLAN.

67-483  
N/F  
NANTUCKET ISLANDS LAND BANK

SECOND WAY

EN

SAND DRIVE

90.06

10.0±

PORCH

EXISTING  
2 STY W/F  
BUILDING  
1,097± S.F.  
(FOUNDATION)

7.7±

6.0±

55-96  
N/F  
A.H. OKSTEIN, TRS.

81.28

92.16

67-17  
N/F  
WILLIAM A. TORNOVISH, JR.

*Edward F. King, Jr.*

### BUILDING LOCATION PLAN OF LAND IN NANTUCKET, MASS.

I CERTIFY, AS OF : 5-22-2006, THAT  
THE BUILDING(S) IS/ARE LOCATED ON THE  
GROUND AS SHOWN HEREON.

*Edward F. King, Jr.*  
PROFESSIONAL LAND SURVEYOR

SCALE: 1" = 20'      DATE: MAY 22, 2006

Owner: . . . . . VENESSA K. RAAB, TRUSTEE . . . . .  
. . . . . RAAB FAMILY REALTY TRUST . . . . .

Deed/Cert.: . . 843-171 . . . . . Plan: . . . 03-24 . . . . .

Tax Map: . 55-664 . . . . . Locus: . # 8, SECOND WAY . . . . .

**CHARLES W. HART and ASSOCIATES, Inc.**  
Professional Land Surveyors  
49 SPARKS AVENUE  
NANTUCKET, MASS. 02554  
(508) 228-8910

THIS PLOT PLAN WAS PREPARED FOR THE TOWN  
OF NANTUCKET BUILDING DEPARTMENT ONLY AND  
SHOULD NOT BE CONSIDERED A PROPERTY LINE  
SURVEY. THIS PLAN SHOULD NOT BE USED TO  
ESTABLISH PROPERTY LINES, FENCES, HEDGES OR  
ANY ANCILLARY STRUCTURES ON THE PREMISES.  
THE PROPERTY LINES SHOWN RELY ON CURRENT  
DEEDS AND PLANS OF RECORD.  
THIS PLOT PLAN IS NOT A CERTIFICATION AS TO  
TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.  
OWNERS OF ADJOINING PROPERTIES ARE SHOWN  
ACCORDING TO CURRENT ASSESSOR RECORDS.

ASSESSOR MAP: . . 55 . . , PARCEL: . . 664 . .

H-6245

# Draft Minutes



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

Wednesday, March 23, 2016 4:00 P.M.  
4 Fairgrounds Road, Training Room

**Commissioners:** Ernie Steinauer (Chair), Andrew Bennett (Vice Chair), Ashley Erisman, David LaFleur,  
Ben Champoux, Ian Golding, Joe Topham

Called to order at 4:00 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator  
Attending Members: Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
Absent Members: LaFleur  
Late Arrivals: Joe Topham 4:04 p.m.  
Earlier Departure:

Agenda adopted by unanimous consent

\*Matter has not been heard

### **I. PUBLIC MEETING**

- A. Public Comment –**
- B.** Lucy Dillon – “Love Thy Nature” will be showing at Starlight Theatre Thursday at three at no charge.
- C.** Emily Molden, Nantucket Land Council – Next Wed, March 30 at 9, Invasive Plant Workshop; it will be filmed and worth 3 licensing credits

### **II. PUBLIC HEARING**

#### **A. Notice of Intent**

- 1. Lily Pond R.T. – 27 N. Liberty Street (41-158 Lot A) SE48-2678 **Withdrawn**
- 2. Lily Pond R.T. – 29 N. Liberty Street (41-158 Lot B) SE48-2677 **Withdrawn**
- 3. Lily Pond R.T. – 31 N. Liberty Street (41-158 Lot C) SE48-2679 **Withdrawn**

Sitting: Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Discussion (4:04): None  
 Staff: The board needs to accept the withdrawal  
 Motion: **Motion to Accept the withdrawal.** (made by: Bennett) (seconded by: Champoux)  
 Vote: Carried unanimously

- 4. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834 **(04/06/2016)**
- 5. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2835 **(04/06/2016)**
- 6. Zarella – 125 Wauwinet Road (12-8) SE48- 2856 **(04/06/2016)**
- 7. Zarella – 129 Wauwinet Road (12-4) SE48- 2857 **(04/06/2016)**
- 8. \*Gut – 13 Columbus Avenue (59.3-110) SE48-2862

Sitting: Steinauer, Bennett, Erisman, Champoux, Golding, Joe Topham  
 Recused: None  
 Documentation: Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative: **Arthur D. Gasbarro**, Nantucket Engineering & Survey – Reviewed project within the buffer to a bordering vegetated wetlands. The wetland boundary has been adjusted as reflected in the revised plan. That resulted in a larger area of the addition, 54 square feet (SF), being within the buffer zone. There is no apparent alternative on such a tight site. Requesting a waiver based on no reasonable alternative/no adverse impact. When the site inspection was done, it was discovered that a free-standing stone fire pit had been built; that will be removed and area replanted with grass. The walkway will be revegetated as well.

**“Gary” Gut**, for Zachary Gut – Feels this house is of the scale of historic Madaket.

Public: None  
 Discussion (4:06): **Golding** – Feels it should be granted; the prior was submitted in good faith.  
 No concerns.  
 Staff: Have everything needed to close.  
 Motion: **Motion to Close.** (made by: Golding) (seconded by: Champoux)  
 Vote: Carried unanimously

9. Shea – 8 Walsh Street (42.4.1-83) SE48-2863
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Mark Rits**, Site Design Engineering – Recapped the project inside the 50-foot buffer to an isolated vegetated wetland. At the last meeting, there was talk about removal of Phragmites; he revised the plan to indicate the plants and spacing; 339-340 SF of land on this property will be replanted.
- Public None  
 Discussion (4:15) None  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Bennett)  
 Vote Carried unanimously
10. Welsh – 101 Eel Point Road (32-7) SE48 – 2864
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Mark Rits**, Site Design Engineering – This is a request to relocate a standing deck on the bank and to attach it to the house; work will be done with hand-held tools and no heavy equipment. Massachusetts Natural Heritage determined this is a No Take.
- Public None  
 Discussion (4:17) None  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Bennett)  
 Vote Carried unanimously
11. Sabelhaus – 2 Quaise Pastures (26-20.6) SE48-2867
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding  
 Recused Joe Topham  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Don Bracken**, Bracken Engineering, Inc. – We were waiting for the Massachusetts Natural Heritage letter; received that and MNH has determined this is a No Take.
- Public None  
 Discussion (4:18) None  
 Staff No waivers required. Reviewed the project. Have everything needed to close.  
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)  
 Vote Carried 5-0
12. \*Nantucket Island Land Bank – 46 & 48 South Cambridge Street (59.3-41 & 42) SE48-2871
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Paul Santos**, Nantucket Surveyors – Reviewed the project: raze or move the existing structure, abandon existing septic, and remove the fencing and driveway. They will be coming forward at a later date with a detailed plan for a dock, viewing platform, and parking for public access to Long Pond. As yet, they do not have a response Natural Heritage and Endangered Species Program (NHESP). Requested continuance for two weeks.
- Public None  
 Discussion (4:20) **Erisman** – In regards to restoration of the area, expressed concerned about the introduction of invasive species in loam brought onto the site.  
**Champoux** – Suggested a Condition for using a screened loam over a compost.  
 Discussion about the difference between loam and topsoil.  
 Staff Can add condition this for monitoring for invasive species.  
 Motion Continued to April 6 without objection  
 Vote N/A

13. \*Great State Properties, LLC – 92 Washington Street (42.2.3-22) SE48-2870
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
- Recused None
- Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
- Representative **Stan Humphries**, LEC Environmental – Resource areas include: coastal beach and coastal bank and land subject to coastal storm flowage. Proposal is to build a 900 SF garage/studio at elevation 5. Explained that slab on grade for non-livable space doesn't have to be elevated as long as there are flood vents. The habitable space will be above the 100-year flood level. This meets all flood-zone requirements. Explained the general plan for landscaping.
- Public None
- Discussion (4:27) **Topham** – The storm surge will still get forced between buildings and accelerate causing washout; the retaining walls will be detrimental to the flow of flood waters.  
**Erisman** – She wants to see a more detailed landscape plan; the proposed landscaping looks extensive for being in the flood zone. Noted that each plant would have each a handful of fertilizer in it.  
**Golding** – Would like to see where the shed is moving to.  
**Steinauer** – We base flood zone projects upon compliance and this is compliant.  
 Discussion about the impact the project would have on the flow of flood waters.  
**Humphries** – Suggested moving the garage to the other side; that would open up the area for flow.  
 Asked for a continuance.
- Staff Reviewed land subject to coastal storm flowage interest of protection; this is not a wildlife habitat area.
- Motion Continued to April 6 without objection
- Vote N/A
14. Town of Nantucket – Quaise Road Layout (26-13) SE48-2852
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
- Recused None
- Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
- Representative **Dave Fronzuto**, Office of Emergency Management (OEM) and Safety Coordinator – Submitted a revised plan at the table; reviewed changes made following the site visit of March 21. The goal is to improve public access, fix erosion, and fix drainage. Explained about delineating the path with snow fencing to help brush on both sides to recover. The parking will be graded with no additional surface material. Reviewed the signage. Believes the coir logs are 12”X20”; he’ll check that. Noted that he will be the project manager and on site for this and the other two erosion projects.
- Public **Lucy Dillon**, Bassett Road – She is happy with the changes; agrees with Mr. Golding that the path should be left natural and delineated with posts with rope. She is still concerned about the split rail, which is not on Town property. Suggested blocking off the road with parking on the Land Bank property and access restricted to pedestrian traffic. Asked she be notified when the work starts.  
**Emily Molden**, Nantucket Land Council – NLC’s concern is handing off the plan to whoever will perform the work; she would like there to be a list of the vegetation to be planted and dimensions of the coir logs. If work is taking place on adjacent property, asked if there is permission for that work.
- Discussion (4:41) **Golding** – Would prefer a rope and posts to delineate the access path.  
**Champoux** – Suggested no gravel on the footpath. Doesn't want to restrict the vehicles to the Land Bank property.  
**Erisman** – Her main concern is the sand fill; it should be clean.  
**Golding** – Asked what is being done about the split-rail fence on private property.  
**Fronzuto** – They have been trying to contact the owner of the abutting property where the split-rail fence is located but he's hard to reach; the fence has been there and been used for a long.  
**Steinauer** – Asked the consensus of the board about if this should stay open for a planting plan or can that be left to staff. Consensus is to close and let staff approve the planting plan.  
**Erisman** – Asked for storm-report monitoring.
- Staff (4:05) Mr. Fronzuto is dealing with a brush fire and asked this be moved down.  
 Have everything needed to close.
- Motion **Motion to Close.** (made by: Champoux) (seconded by: Topham)
- Vote Carried unanimously

15. The Town of Nantucket – Polpis Harbor Entrance Channel (19:78-Lot 17 & Lot 4-1) SE48-2866
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
- Recused None
- Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
- Representative **Dave Fronzuto**, OEM and Safety Coordinator – Submitted additional documentation and heard from Massachusetts Endangered Species Act (MESA) and Massachusetts Natural Heritage. Reviewed access for the maintenance dredging.  
**Mike Count**, CLE Engineering, Inc. – A pre- and post-dredge eel grass survey was proposed and can be conditioned. Currently filing through Department of Environmental Protection (DEP) for water quality certification, which also has to go through the Army Corps of Engineers.
- Public **Emily Molden**, Nantucket Land Council – In regards to the land access, NLC holds a conservation restriction on the Jay property, which wasn't in place at the time of the last dredging; she's not certain that allows this access. Noted that the access point goes through a wetland lined with coastal dunes so there is concern about granting a permit without knowing what the access will entail. There is no roadway. Suggested not including the maintenance at this time and have them come back later for an amendment.
- Discussion (4:56) **Golding** – 35 years ago the eel grass was so dense you couldn't see the bottom; wonders if there is something in the sediment from the cranberry bogs that stops the eel grass from reseeding.  
**Fronzuto** – It might be in the sediment and the Polpis but not in the channel.  
**Count** – Did nine different fiber core samples and shifted the channel to avoid the eel grass so there will be no dredging near the eel grass.  
**Erisman** – Asked about the excavator that will go onto the beach and the material which will be stockpiled on the beach until it can be trucked out.  
**Fronzuto** – That is for the maintenance dredging. The initial dredging material will be removed with a clamshell and stored on a barge or pumped into a barge.  
**Steinauer** – There was also concern about the location for stockpiling the sediment. The concern with the Department of Public Works (DPW) site is the proximity of invasive species that could get into the sediment.  
**Count** – The stockpile plan was based upon isolating the dredged material within its own area. One proposed area is currently clear of any material; the other area is in the southern section. The area would be lined and the down-slope lined with hay bales or Jersey barriers. Another site is at the airport.  
**Golding** – Asked for confirmation that the previous channel was 100 feet wide and the proposal is 60 feet wide.  
**Fronzuto** – It will be 60 feet. Explained how the width is determined. To Ms Molden's point, noted that the proposed access is clear and wide enough for a truck. However, he didn't know about the conservation restriction and her suggestion allows for time to work with NLC about the access.
- Staff Reviewed Massachusetts Natural Heritage comments that would be included in the Order of Conditions. The Eel Grass Survey done last year didn't show any data points within Polpis Harbor because the mapping done before that hadn't shown any eel grass in Polpis Harbor. It was discussed at the last meeting that before there is reuse of sediment here, a sample is to be sent for testing of the nutrient content. That can be conditioned to be done. Believes Ms Molden's suggestion for an amendment is sensible and would allow for memorializing and condition specific land-based operation so the board would know exactly which access will be used and if brush clearing will be necessary. That would be conditioned in the orders. Have everything needed to close.
- Motion **Motion to Close.** (made by: Golding) (seconded by: Champoux)
- Vote Carried unanimously

**III. PUBLIC MEETING**

**A. Request for Determination of Applicability**

- \* 6 North Star Lane, LLC – 6 North Star Lane (30-213)

- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
- Recused
- Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
- Representative **Mark Rits**, Site Design Engineering – This is for determination of a wetland land and associated buffer zone in relation to brush cutting. Most of the proposed brush cutting is outside the 50-foot buffer with a small portion is inside the 50; greater than 50% of the 25-50 will remain native vegetation. The site will come in for an NOI for additional work.
- Public
- Discussion (5:18) **Golding** – Sees no reason not to follow the contour of the 50-foot buffer.  
**Steinauer** – What is proposed is not against the regulations.
- Staff Recommend Positive 2A to confirm the resource boundaries and Negative 3 for work in the buffer zone.
- Motion **Motion to Issue as recommended.** (made by: Bennett) (seconded by: Topham)
- Vote Carried unanimously

**B. Minor Modifications**

1. Oakhill Investments LLC-341 A Madaket Road (60.2.4-64.5) SE48-2828

Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Mark Rits**, Site Design Engineering – This is a request for a split rail along the northern property line. A portion of the fence would be within the 25-foot buffer to the top of the bank; no vegetation will be removed and holes hand augured. Vegetation is all native and natural.  
 Public None  
 Discussion (5:23) **Erisman** – She was against putting in the vegetation; feels putting a split rail through the vegetation is excessive.  
**Golding** – Believes the fence will look awful.  
**Rits** – The vegetation is tall and the fence won’t be readily visible.  
**Champoux** – Suggested running the fence just up to the vegetation. You can’t install a fence without cutting the brush.  
**Rits** – If the fence stops at the vegetation, a stake will be planted to mark the northeast corner of the property.  
 Staff This was in active appeal; Town Counsel has cleared hearing this. Recommend approving with the changes proposed.  
 Motion **Motion to Approve as a minor modification with the proposed changes.** (made by: Bennett) (seconded by: Champoux)  
 Vote Carried unanimously

2. McCarthy Nantucket House, LLC – 12 Coffin Street (42.3.1-77) SE48-2759

Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – This is for approval of a revised landscape plan more in keeping with original conditions and includes an elevated board walkway. The property is within land subject to coastal storm flowage. This plan shows above two ground propane tanks and the existing drive. An existing terrace would be raised with infiltration chambers underneath. For rain runoff, propose a basin in the yard with a line to the catch basin in the road. The proposed plantings have also been identified. There are waivers included with the NOI and this does not propose an increase in scope.  
 Public None  
 Discussion (5:31) **Erisman** – Thinks more wetland plants should be included to help absorb standing water.  
**Steinauer** – Hydrangeas handle that type of water very well. Asked about the boardwalk material.  
**Gasbarro** – It would be all wood. Fibergrate® doesn’t meet the aesthetic the owner is looking for.  
 Staff This is to clarify what the landscape will look like so there will be no issues when the property comes in for the certificate. They are not change or increasing the scope of work or the impact.  
 This falls within the scope of a minor modification.  
 Motion **Motion to Approve as a minor modification.** (made by: Topham) (seconded by: Champoux)  
 Vote Carried unanimously

3. Emmy Real Estate Trust – 2 North Star Lane (30-188) SE48-2705

Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – This is a landscaping proposal for work within the buffer to a boarder vegetated wetland; will replant a previously disturbed area within the no-disturb zone. Asking for allowance of plantings only between the 25 and 38 line. Proposing a dry-laid stone terrace and raised circular fire pit; that’s the extent of the hardscaping.  
 Public None  
 Discussion (5:42) **Erisman** – The plantings should be native between the 25 and 38 line. Also wants a condition for no cultivars.  
 Discussion about the types of plants to go within the 50-foot line, cedar versus Leland Cyprus.  
 Staff This falls within the scope of a minor modification.  
 Motion **Motion to Approve as a minor modification.** (made by: Bennett) (seconded by: Champoux)  
 Vote Carried unanimously

4. Dannheim – 97 Low Beach Road (75-31.2) NAN-119
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Recused None
  - Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
  - Representative **Don Bracken**, Bracken Engineering – Changes are based upon architectural changes to the design: structure is now outside the 100-foot buffer; the pool and hardscaping 57 feet from the wetlands; no change drive and septic. Proposing a wood-post with wire-mesh pool fence outside the 50-foot buffer within existing vegetation. Explained why the fence needs to be reviewed by MNH.
  - Public None
  - Discussion (5:48) **Erisman** – Doesn’t like to see a fence going through vegetation, especially with a clearing. Would like to wait for MNH to make a determination on the fence.  
**Steinauer** – Asked if the openings in the wire fence allows small animals to get through. Would prefer the fence to be along the edge of the clearing.  
**Bracken** – Suggested approving with the fence outside the clearing.
  - Staff The fence meets the code for a pool fence with openings big enough for rabbits. The MNH is a separate process than this; can still act on this. This fits within the scope of the minor modification.
  - Motion **Motion to Approve as a minor modification with the fence along the edge of the clearing.** (made by: Bennett) (seconded by: Topham)
  - Vote Carried unanimously

**C. Certificates of Compliance**

1. Sconset Beach Preservation Fund (87-105 Baxter Road ( Multiple Parcels) SE48-2824 - Partial
- Sitting Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Staff (5:56) This is a continuation of the public meeting held at the site Monday, March 21. This certificate is required by the Order of Conditions to be filed for signoff on the initial structure to ensure it was constructed in compliance. It does not contemplate performance of the structure.
  - Representatives Jamie Feeley, Construction Manager Cottage and Castle Inc  
Arthur D. Gasbarro, Nantucket Engineering & Survey
  - Public D. Anne Atherton, 48 Squam Road  
Emily Molden, Nantucket Land Council
  - Discussion (5:58) **Golding** – There was discussion last time about the accuracy of the transects and the sand template and whether or not one could shift from estimates to a more accurate method of measuring it. He noticed the 5,000 cubic yards (CY) was the estimated loss when the northern end of the bluff collapsed during construction. Asked if there is a more accurate figure.  
**Feeley** – The numbers are estimates resulting from a series of conversations between Maria Hartnett and himself; they used photography, measurements, and dimensions. It is not an exact science but there was no rounding up.  
**Steinauer** – Asked Mr. Feeley to provide an outline of the steps in the process so that others might use it or critique it.  
Feeley – They can add that to their list of tracking and monitoring requirements.  
**Gasbarro** – A detailed LIDAR survey will be undertaken in April. Noted a photograph taken February 17, 2016 showing the top of the waterline; that has already changed. The survey will provide exact topographic data and the photograph and establish a baseline. This can be used for comparison in the future.  
**Erisman** – Asked if the gullies are represented.  
**Gasbarro** – There isn’t much of the gullies at this point; they’ve filled in.  
**Feeley** – 2,000 CY of sand was contributed Monday, March 21 right in front of the viewing stand for the purpose of vegetating. With management of storm runoff from above and stabilizing vegetation, there shouldn’t be any issues going forward with what’s being lost off the face of the bluff.  
**Steinauer** – With all the discussion about 22 yards per linear foot per year of mitigation sand, it will be interesting to see if we ever get a really big storm what kind of contribution that mitigation is provided.  
**Golding** – He’s pleased with the details provided.  
**Atherton** – Special Condition 58 called for an independent peer review of the data and recording. Asked about the status of that requirement.  
**Staff** – People are engaged to review the data and monitoring reports as they come in. It is up to the commission whether or not the as-built undergoes a peer review.  
**Atherton** – She thinks the monitoring is important but this is the baseline data; as a member of the public, she thought that was on-going. The structure has been in place for over a year even if technically it was not complete. In terms of a walkable beach and other conditions, asked if they have to wait until the annual review next fall. Suggested the commission hold a special hearing to inform the public about the monitoring process and what can be expected.  
**Staff** – The first report and performance evaluation will come with the report that is due within the next few weeks which will include: first performance report, the LIDAR survey, and sand budget report. Noted that there are different people employed for different aspects of the peer review; some of those reviewers are on the West Coast to avoid using people who have worked on this project. The review that includes the Summer and Fall will have the invertebrate peer review report.

**Atherton** – Reiterated concerns about monitoring of public access and a walkable beach at high tide.  
**Steinauer** – The as-built is the starting point; from here we see how it changes. Asked the board if they feel this is an accurate depiction of conditions on the ground.  
**Golding** – No.  
**Erismann** – Asked how often Ms Hartnett is on the site.  
**Feeley** – Extremely rarely if ever, Ms Hartnett is involved in all the information and report. She makes the determination as to whether or not the standards for an official report have been met.  
**Erismann** – At the last meeting she couldn't get answers about the location of the benchmark and clay knob; at the site visit it was apparent that the benchmark is on the clay knob.  
**Steinauer** – Going back to the Certificate of Compliance, the question is whether or not the structure is substantially in compliance as to how it was built. We realize this is an on-going project and want to be on top of it over years; however, we didn't want to wait three years to find out it wasn't constructed in compliance.  
**Staff** – What's required of the permit is a partial certificate that says the structure as constructed was constructed as permitted. The permit and its conditions are still in full effect except for this one condition to certify construction. Read the condition appropriate to this hearing requiring the as-built plan.  
**Golding** – Where it has been leveled out between the 3<sup>rd</sup> and 4<sup>th</sup> geo-tube, there seems to be considerably more sand than was asked for. The reason being is to have sand available in an emergency; that is reasonable to him.  
**Feeley** – Stated that by putting all the sand out there, the truck traffic impact is reduced to once a year versus twice a year; it's a lot less setting up and breaking down. The down side is that if a big storm comes and takes it all, they have to cover the tubes back up and put back the 22 CY.  
**Gasbarro** – To that end, the plan shows the elevation of the top of the tube and the elevation of the top of the sand.  
**Erismann** – Since there were changed to the drainage, asked if there is something in the language that states that was amended between the initial permit and now.  
**Staff** – There could be or it could be noted as part of the substantial compliance.  
**Gasbarro** – It is in the plan that there was a shift in the laying of the pipe.  
**Molden** – To Mr. Golding's point about the depth of sand being shown on the 3<sup>rd</sup> but not the 4<sup>th</sup> tube, the order of conditions requires that the 22 CY is delivered to the site at a certain point in the year, but a certain amount will be sitting on top of 4<sup>th</sup> tube for a length of time. Moving forward with the monitoring and reporting, it would be good to document the total value that is entering the system as opposed to just what's being delivered to the site. Right now there isn't a trigger to show the volume is getting into the system.  
**Steinauer** – We don't necessarily want that 22 CY to go into the system every year because the natural system didn't dump 22 CY into the system every year. That's an average over time. As 22 CY is delivered a year and no "mountain" is building up, we will know that sand is getting into the system. Depending on how these questions are answered, we can make modifications.  
**Golding** – Said he is pleased with what has been produced.

**Motion to Issue the partial certificate of compliance.** (made by: Golding) (seconded by: Champoux)  
 Carried 5-1//Erismann opposed

Motion  
 Vote

**D. Orders of Condition**

1. Town of Nantucket – Quaise Road Layout (26-13) SE48-2852

**Sitting Staff** – Steinauer, Bennett, Erismann, Champoux, Golding, Topham  
 Reviewed conditions of the draft that don't include any requested at this meeting; included a condition for a 6" high vegetated berm to go around the parking area to keep water contained. He will add Condition 25: requiring a pre-construction meeting. Added the normal storm-reporting condition.

**Discussion (6:28)** – **Erismann** – Asked for a condition about drainage.

**Golding** – There was talk at the site about raising grade closest to the harbor to make it level; the 6" lip would be after that.

**Motion to Issue as amended.** (made by: Golding) (seconded by: Champoux)

**Vote** – Carried unanimously

2. Gut – 13 Columbus Avenue (59.3-110) SE48-2862

**Sitting Staff** – Steinauer, Bennett, Erismann, Champoux, Golding, Topham  
 Included a conditions about no cultivars and removal of invasive species and photo-monitoring about the area where the fire pit was removed. A waiver was required and is included.

**Discussion (6:32)** – None

**Motion to Issue as drafted.** (made by: Champoux) (seconded by: Topham)

**Vote** – Carried unanimously

- 3. Shea – 8 Walsh Street (42.4.1-83) SE48-2863
  - Sitting Staff Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Photo-monitoring and copy of the license for the herbicide applicator. A yearly summary is required. No cultivars. If Phragmites show up, they have to get rid of it.
  - Discussion (6:33) Discussion about the stand of Phragmites that covers several lots and how to get rid of them.
  - Motion **Motion to Issue as drafted.** (made by: Topham) (seconded by: Champoux)
  - Vote Carried unanimously
- 4. Welsh – 101 Eel Point Road (32-7) SE48 – 2864
  - Sitting Staff Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Condition: area vacated by the deck is to be planted with American beach grass and photos provided.
  - Discussion (6:36) None
  - Motion **Motion to Issue as amended.** (made by: Bennett) (seconded by: Champoux)
  - Vote Carried unanimously
- 5. Sabelhaus – 2 Quaise Pastures (26-20.6) SE48-2867
  - Sitting Staff Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Most is outside ConCom jurisdiction; the stone walkway is the closest work to the wetlands. This is a developed area being reconfigured.
  - Discussion (6:37) None
  - Motion **Motion to Issue as drafted.** (made by: Topham) (seconded by: Bennett)
  - Vote Carried unanimously
- 6. The Town of Nantucket – Polpis Harbor Entrance Channel (19:78-Lot 17 & Lot 4-1) SE48-2866
  - Sitting Staff Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - Condition 19 is for silt curtains. Conditions 20, 21, 22, & 23 are required from MNH; he broke out the January 15 to May 31 separately because that was requested by the Fisheries and he wanted to memorialize the reason for that closer. Condition 25 requires all dredged materials to be tested for nutrient content prior to reuse. Will add Condition 26 requiring pre- and post-dredging eel grass surveys and Condition 27 requiring an amended order for maintenance dredging.
  - Discussion (6:38) **Champoux** – Clarified that there is no requirement to test the sediment prior to dredging; testing is required only prior to reuse.  
**Erisman** – Asked about testing for heavy metals.  
**Staff** – He can add that to Condition 27.  
**Golding** – This area seems to have gone from being full of aquatic life to being sterile. He'd like to know why. Suggested testing after it's been stored, not before it's reused because that could be years.  
**Staff** – If it tests to have an elevated level of nitrogen and phosphorous, the question becomes what to do with it. Noted also that the dredged sediment will not have interacted with the air in years and it will change pretty quickly.  
**Champoux** – The dredged material has to go somewhere and test results probably wouldn't come back before it has to be stockpiled.  
**Staff** – Will add that a sample from the material when it is on the barge and a sample from when it is at the storage area will be tested at the same time for comparison.
  - Motion **Motion to Issue as amended.** (made by: Golding) (seconded by: Bennett)
  - Vote Carried unanimously
- 7. Sip & Sea TR – 10 North Road (43-81) SE48-2869
  - Sitting Staff Steinauer, Bennett, Erisman, Champoux, Golding, Topham
  - This is the bio-engineered tie-in between the harbor armor at 10 North Road and the bio-engineered structure at 48 Shimmo Pond Road. Used the same conditions from the 48 Shimmo Pond Road project; it's just not the same length. He will add Condition 32 requiring the removal of stakes and posts in the beach.
  - Discussion (6:48) **Erisman** – There were metal stakes in the beach.
  - Motion **Motion to Issue as amended.** (made by: Bennett) (seconded by: Topham)
  - Vote Carried unanimously

**E. Other Business (6:51)**

- 1. Approval of Minutes for March, 9, 2016: Approved by unanimous consent
- 2. Reports:
  - a. CPC, Golding – Nothing to report.
  - b. NP&EDC, Bennett – Nothing to report.
  - c. Mosquito Control Committee, Erisman – Reviewed highlights of March 22 meeting.
- 3. Commissioners Comment: None
- 4. Administrator/Staff Reports
  - a. April 2 is Annual Town Meeting at 9 a.m.

Motion to Adjourn: 6:58 p.m.

Submitted by:  
Terry L. Norton