

# Public Meeting



**NANTUCKET CONSERVATION COMMISSION**  
**Updated Meeting Notice/Agenda for Wednesday, May 18th 2016**  
**4:00 P.M. in the 2nd Floor of the Public Safety Facility 4 Fairgrounds Road**

\*Matter has not been heard

**I. PUBLIC MEETING**  
**A. Public Comment**  
**II. PUBLIC HEARING**

**A. Notice of Intent**

1. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2834 **(06/29/2016)**
2. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2835 **(06/29/2016)**
3. Pocomo Neighbours – 47,53,55,57,61,63 & 69 Pocomo Road (Multiple) SE48-2874
4. The Trustees of Reservations –Costaka Coatue Wildlife Refuge and Great Point (7-1.7) SE48- 2884
5. The Town of Nantucket – Consue Springs off Union St (55.1.4-15) SE48-2880
6. \*Bell – 13C Willard St (42.4.1-15.3) SE48-2887
7. \*Hilderbrand – 60 Crooked Lane (41-198) SE48-2886
8. \*Asness RT – 3 Hulbert Ave (29.2.3-6) SE48-
9. \*Lindsay – 15 Pippins Way (43-94.3) SE48-2888
10. \*Knight – 12 E Lincoln Ave (42.4.1-47) SE48-2889

**B. Request for Determination**

1. \*40 Jefferson LLC – 40 Jefferson Ave (30-119)

**II. PUBLIC MEETING**

**A. Certificate of Compliance**

1. \*Kafer – 143 Wauwinet Road (11-8) SE48-909

**B. Orders of Conditions** (If the public hearing is closed – for discussion and/or issuance)  
Discussion of other closed Notices of Intent

1. Pocomo Neighbours – 47,53,55,57,61,63 & 69 Pocomo Road (Multiple) SE48-2874
2. The Trustees of Reservations –Costaka Coatue Wildlife Refuge and Great Point (7-1.7) SE48- 2884
3. The Town of Nantucket – Consue Springs off Union St (55.1.4-15) SE48-2880
4. \*Bell – 13C Willard St (42.4.1-15.3) SE48-2887
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7. \*Lindsay – 15 Pippins Way (43-94.3) SE48-2888
8. \*Knight – 12 E Lincoln Ave (42.4.1-47) SE48-2889

**C. Monitoring Reports**

1. \*Cigarran-25 East Tristam Ave (31-1) SE48-2840
2. \*Giles RT- Off Of Tennessee Ave (60.1.2-33) SE48-2839

**D. Other Business**

1. Approval of Minutes 04/20/2016 & 05/04/2016
2. Enforcement Action
3. Reports: CPC, NP&EDC, Mosquito Control Committee, Other
4. Commissioner's Comment
5. Administrator/ Staff Reports.

PUBLIC MEETINGS AND PUBLIC HEARING

*(from pp. 5-7 of the Nantucket Conservation Commission's Information and Procedures)*

interests of the public and the rights of individuals in an open forum. To act on a matter, a quorum of the Commission (four of the seven members) must be present. Public Hearings are conducted for the same overall reasons as the Public Meeting – to protect both the public interest and the rights of individuals – with the additional purpose of gathering relevant information from the applicant, interested parties, and the public at large, and providing the Commission with the means of gathering the information necessary to developing an informed opinion and to issuing Orders that are fully supported by the appropriate facts, laws, and science.

Public Meetings, and Public Hearings held within Public Meetings, are held in conformance with the Massachusetts Open Meetings Law, M.G.L. Ch. 39 §§23A-C, and the Code of the Town of Nantucket §§1-7, 2-1, et seq., 136-4, where applicable. Pursuant to Section 1-7 of the Code of the Town of Nantucket, the Commission conducts business in accordance with parliamentary procedure as set out by Roberts Rules. The tenth edition is the most recent and presently effective version of Robert Rules. Additionally, where appropriate, the Commission follows the guidelines for Conservation Commission Meetings and Hearings set out by the Massachusetts Association of Conservation Commissions (MACC), the state umbrella organization of Conservation Commissions that works for strong, workable, science-based laws and regulations.

The Chairman or Chairwoman (hereinafter “Chair”) presides at Public Meetings and Public Hearings. In the absence of the Chair, the Vice Chair, or another Commissioner designated by the Chair presides. Public Hearings are conducted with an appropriate degree of formality, in accordance with Roberts Rules of Order, and with reference to state and local laws and regulations. During the Public Hearing portion of the Public Meeting, the Commission follows the following procedures:

- A. The Hearing is called by the applicant’s name and the address of the proposed activity. The applicant may or may not be the owner of the property.
- B. The applicant, or the applicant’s representative, presents the proposal to the Commission by describing the activity or project, its environmental impact, and its location relative to resource areas and buffer zones.
- C. The Commissioners or the Commission staff may at this point have questions for the applicant or the applicant’s representative relating to clarity of the application.
- D. Interested parties, whether abutters, representatives of other entities, or the public, are invited to provide evidence or propose questions relevant to the project, to the resource area, to the protected interests arising by statute or regulation in relation to the resource area, and/or to the performance standards for such activities in such resource areas. Any questions must be directed to and through the Chair, not to the applicant or another person at the hearing. The time available for such public input may be limited by the Chair, especially where a large number of people seek to address the Commission. Public input should be limited to new information—if someone already has provided the same information to the Commission it is unnecessary for it to be restated by another speaker. For the above reasons, it is helpful to the Commission, and often will have more impact, if comments or questions are submitted in writing, in advance if at all possible.
- E. The Commission staff and/or technical consultants retained by the Commission will provide any additional information they may deem relevant to the application, may answer questions from the Commission, and may provide a recommendation to the Commission.
- F. The Commissioners may have additional questions from either the applicant or from persons who have provided evidence or other input to the Hearing.
- G. The Chairman will ask if the applicant has any additional information based on the questions and input outlined above.
- H. The Commission then will deliberate and decide a course of action. The Commission should not be interrupted during its deliberations.

Comments and questions are welcomed at the appropriate time in the hearing. Those most helpful to assisting the Commission in fulfilling its legal mandate are those comments or questions that pertain to the proposal or resource areas that are the subject of the Public Hearing. Issues beyond the Commission’s jurisdiction are not legally relevant and should be avoided.

Because of the acoustics of the room in which the Commissions conducts Public Meetings, it can be difficult for Commissioners to hear those appearing before the Commission, or each other for that matter, if people are engaging in conversation elsewhere in the room. Please take all private conversations to the hallway outside.

Please note that the Commission keeps minutes of its proceedings in accordance with state law. The person keeping the minutes must record the names of persons addressing the Commission, and those addressing the Commission may need to spell their names if the spelling is not obvious. The files related to applications are available for public review at the Commission’s office during normal business hours in advance of, and following the Public Meeting. They are not available for such review during the meeting, when such review would be distracting to Commissioners and staff, and would interfere with the orderly conduct of the Public Meeting.

Typically, the persons appearing before the Commission are professionals, that is, persons who are paid to attend the hearings on behalf of their client or employer. Such persons are expected to understand the rules and procedures of the Commission, and the relevancy of evidence, commentary, or questions submitted to the Commission.

It is not unusual for members of the public to appear before the Commission, especially in response to a notice that an activity is proposed on an abutting or nearby property. The Commission’s staff is available to assist the public in understanding the applications under consideration by the

Commission relative to resource areas and protected interests. The public may visit the Commission’s office and examine the application, the plans that are part of the application, and other materials that may be related to the proposal. Recognizing that non-professionals are not as familiar with the rules and procedures, the Chair is likely to allow them a little more leeway than might be permitted professionals practicing before the Commission. Nevertheless, this guide to Information & Procedures is designed to inform everyone of the practices and procedures. The Chair may redirect anyone at any point if they go beyond what is appropriate under the Commission’s rules of procedure.

Kafer

143 Wauwinet Road

(11-08)

SE48-909

**GLIDDEN & GLIDDEN, P.C.**  
ATTORNEYS AT LAW  
P. O. Box 1079  
37 CENTRE STREET  
NANTUCKET, MASSACHUSETTS 02554  
508-228-0771  
FAX 508-228-6205  
OFFICE@GLIDDENANDGLIDDEN.COM

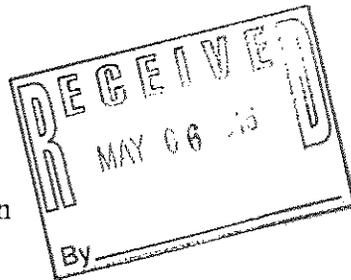
RICHARD J. GLIDDEN  
JESSIE M. GLIDDEN BRESCHER  
JOHN B. BRESCHER

JAMES K. GLIDDEN  
(1917 – 2009)

May 5, 2016

VIA HAND DELIVERY

Jeff Carlson  
Nantucket Conservation Commission



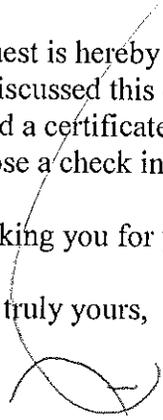
RE: 143 Wauwinet Road  
Order of Conditions No. 67962  
Nantucket, Massachusetts

Dear Jeff,

Request is hereby made for a Certificate of Compliance for Order of Conditions No. 67962. As we discussed this order was for the old septic which was installed in 1995. The Commission just issued a certificate for the new septic system SE 48-2858 which replaced this 1995 installation. I enclose a check in the amount of \$25.00 to cover the fee.

Thanking you for your time and cooperation, I remain,

Very truly yours,

  
Richard J. Glidden

RJG:jl  
enclosure

cc: Julie Fitzgerald (via email, [jfitzlaw@comast.net](mailto:jfitzlaw@comast.net))

DOCUMENT NO. 067962

Order of Conditions

DOCUMENT NO. 067962

**Nantucket Registry District**

APR 26 1995

RECEIVED FOR REGISTRATION

3 O'CLOCK 45 m P M

NOTED ON CERTIFICATE NO. 14210

IN REGISTRATION BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

ATTEST *Janice M. Chadwick*  
ASST RECORDER

310 CMR 10.99  
Form 5

DEQE File No. SE48- 909  
(To be provided by DEQE)



Commonwealth  
of Massachusetts



City/Town Nantucket

Applicant Kafer

**Order of Conditions**

issued under the  
Massachusetts Wetlands Protection Act (G. L. c.131, Sec. 40)  
and the  
Nantucket Wetlands Bylaw (Chapter 136)

FROM THE NANTUCKET CONSERVATION COMMISSION

To: Nancy Kafer Peter K. Kafer; Karen K. Lindgren; Lynn Kafer  
(Name of Applicant) (Name of property owner)

Address c/o John Keegan, Esq. 521 Fifth Avenue, NYC, NY 10175  
22 Floor Address \_\_\_\_\_

This Order is issued as follows:

by hand delivery to applicant or representative on \_\_\_\_\_ (date)

by certified mail, return receipt requested on 4/3/95 (date)

This project is located at 143 Wauwinet Road 11 8  
(Address) (Assessor's Map #) (Parcel #)

The property is recorded at the Registry of Nantucket

Book \_\_\_\_\_ Page \_\_\_\_\_

Certificate (if registered) 14,210, Land Court Plan: 10990-B

The Notice of Intent for this project was filed on 2/17/95 (date)

The public hearing was closed on 3/16/95 (date)

**Findings**

The Nantucket Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Commission at this time, the Commission has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection Under the Act and/or the Bylaw (checked as appropriate):

- Public water supply
- Private water supply
- Ground Water supply
- Erosion control (Bylaw)
- Wetland scenic views (Bylaw)
- Flood Control
- Storm damage protection
- Prevention of pollution
- Recreation (Bylaw)
- Land containing shellfish
- Fisheries
- Protection of wildlife habitat (Act)
- Wildlife (Bylaw)

Total Filing Fee Submitted \$55.00 State Share \$15.00  
 City/Town Share \$40.00 (1/2 fee in excess of \$25)  
 Total Refund Due \$ \_\_\_\_\_ City/Town Portion \$ \_\_\_\_\_ State Portion \$ \_\_\_\_\_  
 (1/2 total) (1/2 total)

Therefore, the Nantucket Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

#### General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specific date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
5. This Order may be extended by the issuing authority for no more than two periods of one year each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final Order has been recorded 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, the Final Order shall also be noted in the Registry's Grantor 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, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is to be done. The recording information shall be submitted to the Commission of the form at the end of this Order prior to commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words, "Massachusetts Department of Environmental Protection, File Number SE48-909."
10. Where the Department of Environmental Protection is required to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.

12. The work shall conform to the following plans and special conditions:

Plans:	<u>Title</u>	<u>Dated</u>	<u>Signed and Stamped by</u>	<u>On File with</u>
			SE48-	DEP File Number <u>909</u>
	Site Plan of Land 143 Wauwinet Road	rev. 2/22/95 dated 2/20/95	Richard M. Cox	The Commission



ATTENTION: SPECIAL CONDITIONS

1. Any changes intended to be made in the most recent plans listed above or in methods described in the Notice of Intent shall require the applicant to inquire of the Conservation Commission, in writing, as to whether the desired change is substantial enough to require filing of a new Notice of Intent. No changes are allowed unless authorized in advance, in writing, by the Commission.
2. This project is approved, contingent upon approval by the Health Inspector when required by law, as specified by the Notice of Intent and all attachments, the most recent plans cited above, and the general and special conditions in this document. However, if there is a conflict between this Order and the application or plans, this Order shall prevail.

ADDITIONAL SPECIAL CONDITION ATTACHED

- Yes
- No

067962

Issued by the Nantucket Conservation Commission

Signature(s) Peter M. Wilson, Jr.  
Peter M. Wilson, Jr. Chairman

Anna Husse

John S. M. Lytle p. 21. 95

William Willet

David R. Willey

This Order must be signed by a majority of the Conservation Commission.

On this 29th day of March 19 95, before me personally appeared the above Commissioners, to me known to be the persons described in, and who executed, the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Bernard Perry  
Notary Public

Feb 18 1998  
My commission expires

The applicant, the owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7), within ten days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Copy the Order and submit to the Nantucket Conservation Commission prior to commencement of work.

To The Nantucket Conservation Commission Issuing Authority

Please be advised that the Order of Conditions for the project at \_\_\_\_\_

File Number \_\_\_\_\_ has been recorded at the Registry of Nantucket and

has been noted in the chain of title of the affected property in accordance with General Condition 8

on \_\_\_\_\_, 19 \_\_\_\_ If recorded land, the instrument number which identifies this transaction is \_\_\_\_\_

\_\_\_\_\_. If registered land, the document number which identifies this transaction is \_\_\_\_\_

Signature \_\_\_\_\_ Applicant/Agent

**FINDINGS and ADDITIONAL SPECIAL CONDITIONS**  
**Nancy Kafer**  
**DEP FILE NUMBER SE48 - 909**  
**ASSESSOR'S MAP 11, PARCEL 08**  
**143 Wauwinet Road**  
**UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT**  
**( MGL CHAPTER 131, SECTION 40 )**  
**AND THE WETLANDS BYLAW OF THE TOWN OF NANTUCKET**  
**( CHAPTER 136 )**

**FINDINGS**

- 1.) Areas subject to protection are coastal dune, coastal beach, barrier beach, isolated wetland, vegetated wetland, and their buffer zones.
- 2.) There is an existing six bedroom dwelling and a one bedroom cottage on the property.

**ADDITIONAL SPECIAL CONDITIONS**

3. Pursuant to General Condition Number 8, this Order of Conditions must be registered in the Registry of Deeds for Nantucket and proof of recording shall be submitted to the Commission, prior to commencement of any work approved in this Order.
4. No work approved under this Order shall take place until all administrative appeal periods from the Order have elapsed, or, if an appeal has been filed, until all proceedings have been completed.
5. Prior to any activity at the site, siltation fence or a line of haybales shall be staked along the line as shown on the final approved plans with the exception that when the fence reaches the end of grading, it shall turn northward to within five (5) feet of the relocated water line and then travel to the existing sand driveway, or at a higher elevation. After the fence or haybales are installed, notice shall be given to the Nantucket Conservation Commission. **No work shall begin on the site for 48 hours after said notice is given, so as to allow Commission members time to inspect all siltation devices.** The snow fence, siltation fence or haybale line, erected to prevent siltation, erosion, filling of the wetland, and trap windblown debris during construction, will also serve as a limit of activity for work crews. It shall remain in good repair during all phases of construction, and it shall not be removed until all soils are stabilized and revegetated or until permission to remove it is given by the Commission.
6. An as-built plan, signed and stamped by a registered professional engineer or land surveyor in the Commonwealth of Massachusetts and have the same scale as the final approved plans, shall be submitted to the Commission at the same time as a written request for a Certificate of Compliance and shall specify how, if at all, the completed plan differs from the final approved plan. The as-built plan shall include, but not be limited to, the following: any pipe/culvert inverts for inflow and outfalls; pipe slope, size

and composition; location of other drainage structures and their composition; limits of fill or alteration; location of all structures and pavement within 100 feet of wetland; the edge of the wetland; the grade contours within 100 feet of the wetland.

7. Members, employees, and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions and performance standards stated in this Order, the Nantucket Wetlands Bylaw, the Regulations promulgated under the Bylaw, the Massachusetts Wetlands Protection Act, and pertinent Massachusetts regulations (310 CMR 10.00 through 10.99). The Commission may require the submittal of any data deemed necessary by the Commission for that evaluation.
8. The applicant, owners, successors or assignees shall be responsible for maintaining any on-site drainage structures and outfalls, assuring the lasting integrity of vegetative cover on the site and monitoring site activities so as to prevent erosion, siltation, sedimentation, chemical contamination or other detrimental impact to any on-site or off-site resource area. It shall be the responsibility of the property owner of record to see that the maintenance conditions are complied with as required by this order.
9. This document shall be included in all construction contracts and subcontracts dealing with the work proposed and shall supersede other contract requirements.
10. Used petroleum products from the maintenance of construction equipment, construction debris, and unused paint and paint-related products shall be collected and disposed of responsibly off the site. No on-site disposal of these items is allowed.
11. Dust control, if required, shall be limited to water. No salts or other wetting agents shall be used.
12. Any refuse material found on the site shall be disposed of at an approved landfill and in no case may these materials be buried or disposed of in or near a wetland.
13. This Order of Conditions shall apply to any successor in interest or successor in control of the property.
14. Natural vegetation between the wetland edge and upland edge of the undisturbed buffer shall be left intact. After construction, any disturbed area within this buffer area shall be replanted with native plants. The side slopes for the replaced leach trenches shall be replanted with beach grass.
16. To minimize adverse effects on wildlife, the use of any pesticide or fertilizer within the Commission's jurisdiction is prohibited.

17. The use of timber pressure treated with CCA (chromated copper arsenate) or its equivalent is permitted. Creosote treated timbers are prohibited. The Commission suggests the use of non-wooden alternative materials be used in the wetlands. The wood preservative must be dry before the treated wood is used in construction.
18. The capacity of the system shall be limited to the flows allowed under Title V of the State sanitary regulations for a seven (7) bedroom dwelling. This will allow for the servicing of the existing bedrooms in the dwelling. Any expansion of the on-site sewage disposal system approved in this Order of Conditions for this dwelling shall be limited to any currently approved alternative systems or any system yet invented that would remove nitrogenous compounds, phosphorus and pathogenic compounds. This condition shall be on-going and not expire with the issuance of a Certificate of Compliance.
19. No coastal engineering structure of any kind, such as bulkhead, revetment, or seawall, shall be permitted on the property in the future to protect the project allowed by this Order.

**WAIVER UNDER THE NANTUCKET WETLANDS BYLAW:**

The Commission hereby grants the applicant a waiver from Section 2.04(B)(3), of the Wetlands Protection Regulations of the Town of Nantucket, under the Wetlands Bylaw (Chapter 136). This section requires that no septic systems be built on a barrier beach. Therefore, this section would apply to the proposed septic system replacement. However, there has been a clear and convincing showing by the applicant that there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the regulations and that the septic replacement will, as conditioned above, be an improvement of the existing conditions and therefore have a reduced adverse effect upon any of the interests protected by the By-law. Therefore, these waivers are granted under the authority of Sections 1.03(F)(1) and 1.03(F)(2)(a), (c) and (d) of the Wetlands Protection Regulations for the Town of Nantucket.

###

# Monitoring Reports

Cigarran

25 East Tristam Ave

(31-1)

SE48-2840

## **FINDINGS and ADDITIONAL CONDITIONS**

Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)  
Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: 25 East Tristam Avenue  
Assessor's Map and Parcel: 31-1  
Property Owner: Thomas G. & Constance T. Cigarran  
Applicant: Thomas G. & Constance T. Cigarran  
DEP File Number: SE48-2840  
Filing Date: October 30, 2015  
Date Hearing Closed: January 13, 2016  
Date Orders Issued: January 13, 2016  
Plan of Record Information: Site Plan of Land to Accompany a Notice of Intent, dated 10/20/2015, and stamped by Arthur D. Gasbarro, P.E.

### **Permit Overview:**

This order permits the installation of timbers on top of an existing timber bulkhead, placement of sand fill and planting of American Beach Grass on a Coastal Bank (manmade). Waivers are not required for this project.

### **Additional Findings:**

1. The area falls outside mapped habitat areas and does not require NHESP review.
2. The Commission finds that this project is work on an existing, permitted timber bulkhead.

**In addition to the General Conditions contained elsewhere in this document, the Commission includes the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136:**

18. All work shall be performed in accordance with the Site and Work Description contained within the Notice of Intent and plan notes set out on the plan of record, provided project narratives, and protocols.
19. The applicant shall provide photographs of the areas to be allowed to be planted with American beach grass at the beginning and end of each growing season for a period of three years or until a Certificate of Compliance is issued.
20. An annual report shall be filed with the Commission demonstrating the condition of the structure, amount of sand placed and condition of the existing bulkhead.

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

Waivers are not required for the project as proposed.



April 23, 2016

Jeff Carlson, Administrator  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

RE: 25 East Tristram Ave  
Map 31 Parcel 1  
SE48-2840

Dear Jeff:

I am writing to provide the monitoring report required per Condition 19 at the start of the growing season. Attached are current photographs of the coastal bank recently planted with American Beach Grass.

Please feel free to contact me with any questions or concerns regarding this matter.

Sincerely,  
Nantucket Engineering & Survey, P.C.  
By: Arthur D. Gasbarro, PE, PLS, LEED AP

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

CC: Thomas Cigarran

April 22, 2016



Giles RT

Off of Tennessee Ave

(60.1.2-33)

SE48-2839

## **FINDINGS and ADDITIONAL CONDITIONS**

Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)  
Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: Off of Tennessee Avenue  
Assessor's Map and Parcel: 60.1.2-33  
Property Owner: Giles Realty Trust  
Applicant: Giles Realty Trust  
DEP File Number: SE48-2839  
Filing Date: October 30, 2015  
Date Hearing Closed: November 18, 2015  
Date Orders Issued: December 2, 2015  
Plan of Record Information: Site Plan of Land to Accompany a Notice of Intent, dated 10/29/2015, stamped by Arthur D. Gasbarro, III P.L.S.

### **Permit Overview:**

This order permits the maintenance of an existing timber dock and walkway, the abandonment of an existing footpath and the establishment of a new footpath within Bordering Vegetated Wetland, Salt Marsh, Land Subject to Coastal Storm Flowage, Land Under the ocean and their associated buffer zones. Waivers are required for this project.

### **Additional Findings:**

1. The area falls outside mapped habitat areas and does not require NHESP review.

**In addition to the General Conditions contained elsewhere in this document, the Commission includes the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136:**

18. All work shall be performed in accordance with the Site and Work Description contained within the Notice of Intent and plan notes set out on the plan of record, provided project narratives, waiver requests and protocols.
19. No boats may be stored on the wetland or marsh.
20. A monitoring report including photographs shall be filed with the Commission at the beginning and end of each growing season demonstrating the condition of the footpath. If an adverse impact is reported the applicant shall appear before the Commission with a plan to restore or improve the area.

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

Waivers are required to Sections 2.06(B)(4) and 3.02(B)(1) that all projects that are not water dependent shall be at least 25 feet from a vegetated wetland or salt marsh and that all structures be 50 feet from a vegetated wetland or salt marsh. The Commission finds that given the current and historic site conditions that project as proposed will not have an adverse impact and that there are no reasonable alternatives. The Commission also finds that the existing path and dock pre-date the regulations. Therefore the Commission grants waivers under Section 1.03(F)(3)(a & d) of the Nantucket Wetland Protection Regulations.



Hi, All visitors requesting a CTNCTD to be added to a trail on the California Ave in order to give us access to our. All method CTNCTD when we stand and again when we complete the path. It suggest that I take photos of the path now to show the 'pre growing condition' requirement. I have marked some photos. Please either e-mail or call me at 226-2178. [Katie@ctnctd.com](mailto:Katie@ctnctd.com)

From: Katie <[katie@ctnctd.com](mailto:katie@ctnctd.com)>  
Date: Wed, 20 Dec 2017 15:24:52 PST  
Subject: From Katie, California Ave, marked

Hi, I have forwarded message:

Katie & Debbie Callan  
Here is what I sent to Jeff on 12/19. Please reply when you receive it. Thanks, Katie Callan

From: [katie@ctnctd.com](mailto:katie@ctnctd.com)  
Subject: From Katie, California Ave, marked  
Date: Wed, 20 Dec 2017 15:24:52 PST









Keri & Robbie Giles

# Draft Minutes



# CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, April 20, 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 4:01 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator  
Attending Members: Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Absent Members: None  
Late Arrivals: LaFleur, 4:01 p.m.  
Earlier Departure:

Agenda adopted by unanimous consent

\*Matter has not been heard

## I. PUBLIC MEETING

A. Public Comment – None

## II. PUBLIC HEARING

### A. Notice of Intent

1. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834 **Cont (05/04/16)**
2. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2835 **Cont (05/04/16)**
3. Zarella – 125 Wauwinet Road (12-8) SE48- 2856 **Cont (05/04/16)**
4. Zarella – 129 Wauwinet Road (12-4) SE48- 2857 **Cont (05/04/16)**
5. Great State Properties, LLC – 92 Washington Street (42.2.3-22) SE48-2870

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Stan Humphries, LEC** – Reviewed previous discussion. Resited the garage to the south side of the property; this requires a shed be relocated to the far west corner. The shed is on 4 concrete piers to allow water to pass under the shed.

Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP

Public None

Discussion (4:02) **Golding** – He had brought up the scenic view from Washington Street; read the Town regulations pertaining to wetland scenic views. He is more comfortable with the resiting of the garage.

**Erisman** – Asked about the material of the current parking and how much brick will be in the new driveway.

**Humphries** – It is currently gravel; reviewed the area to be bricked.

**Steinauer** – Confirmed that the beach will be open for people to walk the harbor.

Staff Have everything needed to close.

Motion **Motion to Close.** (made by: Champoux) (seconded by: Topper)

Vote Carried unanimously

6. \*Pocomo Neighbours – 47, 53, 55, 57, 61, 63 & 69 Pocomo Road (Multiple) SE48-2874

Sitting Steinauer, Bennett, Erisman, LaFleur, 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 – Reviewed the erosion control project. Length just under 1800 feet covering seven properties. Previous projects to stabilize the bank will be removed; fiber rolls will be installed and covered with sand then planted with American beach grass. The equipment access to the beach is from Pocomo Point and material will be delivered from a proprietor’s road over the bank. Have included in the application the same monitoring conditions imposed on similar projects.

**Lee Weishar**, Senior Scientist/Coastal Engineer Woods Hole Group — Reviewed his investigation of the property leading to the decision to install this type of coastal erosion structure.

Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP

Seth Wilkinson, Wilkinson Ecological Design

Public Emily Molden, Nantucket Land Council

Discussion (4:08) **Erisman** – Asked at what point in the lunar cycle was the high water measured.

**Weishar** – He will get back with that information. He studied three events from January 2016 to calculate the affect of storm surge, wave height and water level on the beach and face of the coastal bank. Explained

what he used to make his calculations. A normal storm wave height was about ½ foot breaking on the beach at high tide. During a major storm, the surge was 4 feet with a wave height at 4 feet breaking at the toe of the bank and running up the bank. The third storm had about 2.5-foot wave height breaking on the beach and running up the bank. Short term erosion rate is about 1.7 feet per year. The toe of the bank is regularly exposed to waves and storm surge.

**Gasbarro** – In the report they prepared, they explained how stabilizing the bank will protect each protected area. He also included his analyses of other options.

**Wilkinson** – Reviewed locations of similarly designed structures, which he said have been successful. The underlying goal is to reseed the coastal bank but it has to be stable enough to hold the plants.

**Golding** – Asked how much sand was lost and how much will be reintroduced; the proposed seems far less than what is actually lost. His calculation for 3 to 4 inch sand cover is about 3 cubic yards (CY) per linear foot over the 1800 feet of the project.

**Wilkinson** – Noted that the sand has to be deeper at the foot than at the top to hold the sand at the top; the goal is to match the contribution. He will recheck the figures.

**Erismann** – The sand cover at the Shimmo project this past winter looked like it had blown to the next property; she's concerned that could happen here. There are sheltered habitats in front of this beach. Asked if there were any source photos of this bluff. Asked if it had ever been stable or has it always been just a sediment source. Also asked the location of the home closest to the bluff.

**Gasbarro** – The bottom step of Nr 61 is the closest. Most of the homes are post 1978; said they didn't dig too deep because this isn't a coastal engineering structure. This is a soft solution.

**Champoux** – Asked what stabilizing plants would be used.

**Wilkinson** – American beach grass. They will come back after 3-5 years to discuss any changes necessary such as adding shrubs. The upper fiber rolls could be vegetated at the time of installation.

**Champoux** – We are going to see a lot of these projects and the island will run out of nourishment material. We need to consider where materials will come from when that happens and the effect it will have on the project.

**Wilkinson** – There is a change at the State regulatory level as to what will be allowed as a sediment source; we don't know what the situation will be in 10 years. As the beach grass begins to grow, it harvests the sand mitigating the amount of nourishment necessary.

**Steinauer** – Beach grass collects small amounts of sand; asked how deep the grass can be buried and still survive.

**Wilkinson** – Beach grass buried 4-6 inches has no problem; the more established it gets the more sand it can tolerate.

**Erismann** – Asked if there is a concern for cliff-nesting birds. Asked also how they intend to monitor the rocky areas in front of the bank.

**Carlson** – He has never seen cliff-nesting birds in this stretch; they prefer a stable vertical face.

**Wilkinson** – As for monitoring the cobble, they would review the topographical changes and any changes in compositional elements.

**Gasbarro** – Explained how he surveyed the material composition of the bank and looked for any pockets of salt marshes.

**Steinauer** – Asked if the cobble affects wave break.

**Weishar** – Cobble doesn't help break waves but will slow run up. He noted that action on this beach is dynamic.

**Bennett** – Asked how long it will be before they can see whether or not the structure is having an effect.

**Wilkinson** – By looking at vegetated cover, he can ascertain the amount of damage and friction exerted.

**Steinauer** – Asked how far out from the bank the bottom roll will be.

**Wilkinson** – Not much further than the existing toe. Noted that in their clean up, they will have to remove only the area of the upper bank which is undercut.

**Steinauer** – Asked about the possibility of end scour should the fiber rolls become uncovered.

**Wilkinson** – Looking at other similar projects around Cape and Islands, it doesn't match the absorption rate of wave energy as the bank; have never seen end scour extend more than 5-7 feet off the end. End scour happens when that energy gets trapped.

**Gasbarro** – Noted that the western end runs into a sand-drift fence project with nourishment.

**Molden** – Asked whether or not these rolls are designed to release sand when subjected to wave energy; would like more information about the type of mesh and number of layers. Would like to know how the installation will terminate. Nourishment material is the veneer on the front; asked what the material inside the rolls will be. The nourishment plan indicates it will be provided in May; this location should balance the need for downdrift sediment. "Significant storm" has to be redefined in regards to monitoring reports; the current definition doesn't adequately cover some of the northeasters that have hit. To evaluate how much nourishment is being placed, you need an idea of how much is being lost and when. Asked the commission to require, in monitoring, to look at the elevation of the beach and mean high water for the length of the project.

**Steinauer** – Stated the commission has seen three types of coir installation: bags, logs, and mats.

**Gasbarro** – The “bag” is referred to as a tube, which is a coir tube filled with sand. This particular product uses a coir roll, which is a roll of fiber around itself. Stated that it will be best for hem to file a supplemental response to Ms Molden’s and the commission’s questions. The mean high water, not just the observed water line, should be shown on all the plans. Every other, or every, monitoring report should be presented, not just submitted. Sediment is coming from the veneer not the rolls. Nourishment delivery is more about what is needed to maintain the template.

**Golding** – Asked how many transects would be appropriate for monitoring before, during, and after construction; this is 1800 feet long.

**Gasbarro** – He thought three transects were adequate but he can add more.

**Steinauer** – Asked if there is an overall organization or separate individuals overseeing this multi-property project. What happens if a property changes hands.

**Reade** – Can put on record that future owners are subject to the responsibilities set by the prior owner.

**Golding** – We need to establish failure criteria.

**Erisman** – At the terminal end at Nr. 47, asked if there is a significant amount of water seeping out of the cliff at that location.

**Gasbarro** – Asked for a continuance to May 4.

Staff He has never seen cliff-nesting birds in this stretch; they prefer a stable vertical face.

Motion Continued to May 4 without objection.

Vote N/A

7. Savel Nominee Trust – 47 Pocomo Road (15-19) SE48-2872

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **David M. Haines**, Haines Hydrogeologic Consulting – In regards to Ms Erisman’s question about seepage at 47 Pocomo, confirmed that water does seep out; there is a wetland system in back of the bank. Massachusetts Natural Heritage ruled no adverse affect; they asked that the toe of the stairs be kept as close as possible to the toe of the slope; explained that the stairs will be pulled back.

Public None

Discussion (5:22) None

Staff Were waiting for Massachusetts Natural Heritage comments; those arrived.

He was instructed to draft a positive order.

Have everything needed to close.

Motion **Motion to Close.** (made by: LaFleur) (seconded by: Champoux)

Vote Carried unanimously

8. \*Wilson – 24 Brant Point Road (29-85.1) SE48-2876

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Chris Powers** – The project is to eradicate a stand of knotweed by treating it with glyphosate at 3% with red weeder application and then plant two maples and one birch in the area and, if necessary in the future, plant some winterberry. There is an olive tree his client would like to get rid of.

Public None

Discussion (5:25) **Steinauer** – Confirmed that this is solid knotweed with no other plants.

**Champoux** – The glyphosate should be administered by a licensed applicator.

**Golding** – There had been concern about the affect of glyphosate on the wetland.

**Steinauer** – Glyphosate is more effective when the plant is going into dormancy; recommends triclopyr in the Spring and the glyphosate in the Fall.

**Champoux** – Pointed out the process to completely eradicate the knotweed will take about three years.

**Steinauer** – Noted that the weeder applies small amounts and the concentration might have to be increased to 10%. A back-pack sprayer delivers more of the product.

**Bennett** – Asked if the application of the herbicides should be a concern for the trees they want to put in.

**Champoux** – No.

**Steinauer** – Typically require a few plots be put out there. Asked how big the area is.

**Powers** – 200 SF bordering the new lawn area.

Staff The two resources are land subject to coastal storm flowage and a buffer zone to a vegetated wetland.

They could have applied under an RDA but figured, if down the road conditions required adaptation of methods, they could modify the permit. During his site visit, he didn’t find any other plants of the area; the knotweed is pretty thick.

Have everything needed to close.

Motion **Motion to Close.** (made by: Topham) (seconded by: Champoux)

Vote Carried unanimously

9. \*Maine Ave Trust – 10, 12, & 14 Maine Avenue (60.3.1-433,459,463 & 431) SE48-2877  
 Sitting Bennett (acting chair), Erisman, LaFleur, Champoux, Golding, Topham  
 Recused Steinauer  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – This NOI is a follow up to a friendly enforcement order to relocate structures away from a rapidly eroding coastal bank. The structures have been moved outside the 100-foot buffer.  
 Public None  
 Discussion (5:36) None  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded by: Topham)  
 Vote Carried 6-0

10. \*Swift – 231 Madaket Road (38-10) SE48-2878  
 Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **David M. Haines**, Haines Hydrogeologic Consulting – This is for a new septic and clean up between the original plan and what is there now. The septic is outside the buffer zone to a bordering vegetated wetland. The 100-year flood elevation covers the whole property. The previous order established a no-disturb buffer, which wasn't restored; that will be restored under this NOI. Reviewed differences between the original order and what exists. A small portion of a vegetable garden is on Madaket Conservation Land Trust property; his client has permission for that use and it is included in this application.  
**Don Bracken**, Bracken Engineering, Inc. – There is a waiver request for a 2-foot separation for the shed. The septic is standard and reviewed by the BOH.  
 Public None  
 Discussion (5:38) None  
 Staff Aerial archives indicate the use on this property has moved over time; he's not sure at what point the fences appeared. The aerial indicates it was clearly lawn down into the wetland; that is being cleaned up. Have everything needed to close.  
 Motion **Motion to Close.** (made by: Golding) (seconded by: Topham)  
 Vote Carried unanimously

11. \*A & B Realty Trust – 53 & 55 Baxter Road (49-17 & 18) SE48-2879  
 Sitting Steinauer, Bennett, Erisman, LaFleur, 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 work within the buffer to a coastal bank; relocate structures on the site outside the 50-foot buffer and landscape the vacated area. No dewatering is proposed. The second geothermal well is moving to outside the 100-foot buffer.  
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP  
 Public None  
 Discussion (5:48) **Erisman** – Asked whether or not it has a basement.  
**Gasbarro** – It doesn't have a basement now; but it will go on a full basement.  
 Staff The existing condition plan shows two geothermal wells; one will stay, asked what is happening to the second.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded by: Champoux)  
 Vote Carried unanimously

**B. Amended Orders of Conditions**

1. Five and Nine Medouie Creek RT – 5 & 9 Medouie Creek Road (20-5 & 4) SE48-2587  
 Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative **Don Bracken**, Bracken Engineering, Inc. – Reviewed the original project. This amendment consists of removing 800 square feet (SF) of vegetation and extending the fence for the purpose of a vegetable garden; all work is outside the 50-foot buffer. Pool equipment and retaining walls and location of septic tank are additional changes.  
 Public None  
 Discussion (5:53) None  
 Staff None  
 Motion **Motion to Close and issue.** (made by: Champoux) (seconded by: Bennett)  
 Vote Carried unanimously

2. Cumberland Farms, Inc – 115 Orange Street (55-364) SE48-2709  
 Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative **Paul Santos**, Nantucket Surveyors – Reviewed original order. This amended order deals with incorporating a site plan into the file in regards to building size, hardscape, and layout. The existing garage and concrete slab will be replaced with a new storage structure. Drainage and utilities will not change. The front portion of the property is within land subject to coastal storm flowage.  
 Public None  
 Discussion (5:58) **Erisman** – Thinks there are trees other than Leland Cyprus that are better for the area.  
 Staff None  
 Motion **Motion to Close and Issue.** (made by: LaFleur) (seconded by: Bennett)  
 Vote Carried unanimously

**III. PUBLIC MEETING**

**A. Request for Determination of Applicability**

1. \*4 The Kids Realty Trust – 79 Pocomo Road (15-5)

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding  
 Recused Topham  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – This is for work within the buffer to coastal bank to clear brush, regrade, and seed or plant the area with native plants. Work will not encroach past the 25-foot buffer. No waivers needed or requested.  
 Public None  
 Discussion (6:04) None  
 Staff Recommend approval with a Positive 2A confirming resource areas and Positive 3 for work within the buffer zone.  
 Motion **Motion to Approve as recommended.** (made by: Bennett) (seconded by: LaFleur)  
 Vote Carried 6-0

**B. Minor Modifications**

1. Cliff ACK Realty Trust – 96 Cliff Road (41-15) SE48-2066

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Paul Santos**, Nantucket Surveyors – Asking to incorporate a detailed landscape plan into the file and remove the tree that is on the site and located outside the 25-foot buffer to the swamp and 50-foot buffer to the vernal pool. This was held to ascertain the type of the tree, which is confirmed as a red maple. To mitigate its removal, they will replace it with two 4-caliper red maples.  
 Public **Emily Molden**, Nantucket Land Council – Red maples are awesome habitat trees and this is a nice specimen. If the commission permits its removal, she encourages replacement with swamp red maples.  
 Discussion (6:08) **Champoux** – Red maples are a significant tree in regards to habitat and performance. There is some question that it might be a silver maple. This tree is presenting some structural deficiency. He can't tell which maple it is until the leaves come out. As an arborist, he would recommend its removal.  
**Santos** – If we agree it can be removed, asked if two trees at 4- caliper as replacement trees is adequate.  
**Champoux** – More than two will be required to replace this mature tree. Caliper 8 trees are hard and expensive to move. Suggested getting a tree expert to do an analysis.  
**Golding** – Suggested allowing the tree to be removed then ascertain its type for the mitigation trees.  
**Steinauer** – Asked they hold for a positive identification of the tree. Then we can determine how much and what type of mitigation we want.  
 Discussion about how to proceed: whether or not to allow the removal of the tree before knowing its species and replacing with four 6" red maples.  
**Santos** – Asked for a continuance.  
 Staff Performance standards don't allow for the destruction of forested swamp to which red maple is a key species. Removing the tree falls within the performance standards. For habitat purposes, the preference is that it be replaced.  
 Motion Continued to May 4 without objection.  
 Vote N/A

2. Collis – 5 Galen Avenue (29-122) SE48-2815

Sitting Steinauer, Bennett, Erisman, LaFleur, 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 – The propane tank is being moved to under the southerly deck, where it will be above ground and strapped to the foundation. The front stairs are turning 90 degrees as opposed to going straight out. The rear deck stairs will be narrower.  
 Public None  
 Discussion (6:32) None  
 Staff None  
 Motion **Motion to Approve.** (made by: Topham) (seconded by: Bennett)  
 Vote Carried unanimously

3. Wesquo Capital Partners – 57 Washington Street (42.2.3-37 Lot 1A) SE48-2796

4. Wesquo Capital Partners – 57 Washington Street (42.2.3-37 Lot 1B) SE48-2837

Sitting Steinauer, Bennett, Erisman, LaFleur, 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 original orders of condition. The modification is to incorporate the detailed landscape layout for both properties. This is within land subject to coastal storm flowage. There is a coastal beach across the street. Flood elevation is 9 and the site is at elevation 4.5. Reviewed the landscaping plan. Drive and parking is grass with cobblestone strips. Patios and one spa are elevated; the other spa is at grade; the elevated areas represent about 10% of the lot area for each lot and won't restrict passage of flood waters.  
 Public None  
 Discussion (6:38) **Erisman** – The plan says a rain garden, but the plant list isn't indicative of a rain garden.  
**Santos** – It is actually a retaining area to collect roof run off.  
**Champoux** – The raised areas that are 10% of each lot are getting filled in. Asked how the performance standards address that.  
 Discussion about whether or not the lots will be able to continue holding the same amount of flood waters with the raised areas.  
**Erisman** – Asked how much top soil will be added to the site.  
**Santos** – Enough only to bring it back up to 4.5; the site is currently scoured.  
 Staff If your lot can hold X amount of flood water, it should continue to hold that amount of flood water. Raising any amount of grade alters the ability to hold water.  
 Motion **Motion to Issue.** (made by: Bennett) (seconded by: LaFleur)  
 Vote Carried 6-1 // Erisman opposed

**C. Certificates of Compliance**

1. Cunningham – 103 Eel Point Road (32-6) SE48-2545

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Permitted but not carried out.  
 Discussion (6:56) None  
 Motion **Motion to Issue.** (made by: LaFleur) (seconded by: Champoux)  
 Vote Carried unanimously

2. Nantucket Islands Land Bank – 27 North Cambridge St (38-24) SE48-2527

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Complete with on-going Condition 20.  
 Discussion (6:56) None  
 Motion **Motion to Issue.** (made by: Golding) (seconded by: Champoux)  
 Vote Carried unanimously

3. Nantucket Islands Land Bank – 50 Madaket Rd (41-99) SE48-2205

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Work is being carried out.  
 Discussion (6:57) None  
 Motion **Motion to Issue.** (made by: Topham) (seconded by: Bennett)  
 Vote Carried unanimously

**D. Extension for Order of Conditions**

1. Nantucket Yacht Club – 1 South Beach Street (42.4.2-10) SE48-2559

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
 Staff Asking for a 1-year extension.  
 Discussion (6:58) None  
 Motion **Motion to Issue the 1-year extension.** (made by: Golding) (seconded by: Bennett)  
 Vote Carried unanimously

**E. Orders of Condition**

- 1. Great State Properties LLC – 92 Washington Street (42.2.3-22) SE48-2870

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (6:58) None  
Motion **Motion to Issue as drafted.** (made by: LaFleur) (seconded by: Champoux)  
Vote Carried unanimously

- 2. Savel Nominee Trust – 47 Pocomo Road (15-19) SE48-2872

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (6:59) **Golding** – Asked for a provision that if the restored area doesn’t recover they should come back.  
Motion **Motion to Issue as amended.** (made by: Champoux) (seconded by: LaFleur)  
Vote Carried unanimously

- 3. Wilson – 24 Brant Point Rd (29-85.1) SE48-2876

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (7:02) **Golding** – Suggested before and after report on the health of the wetland.  
**Erisman** – It should start regenerating by the end of the first growing season.  
**Steinauer** – We are requiring photographic reports of the restored area.  
Motion **Motion to Issue as drafted.** (made by: LaFleur) (seconded by: Bennett)  
Vote Carried unanimously

- 4. Maine Ave Trust – 10,12,14 Maine Avenue (60.3.1-433,459,463 & 431) SE48-2877

Sitting Bennett (acting chair), Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (7:04) None  
Motion **Motion to Issue as drafted.** (made by: Golding) (seconded by: LaFleur)  
Vote Carried 6-0 (Steinauer recused)

- 5. Swift – 231 Madaket Road (38-10) SE48-2878

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (7:06) None  
Motion **Motion to Issue as drafted.** (made by: Golding) (seconded by: Champoux)  
Vote Carried unanimously

- 6. A & B Realty Trust – 53 & 55 Baxter Road (49-17 & 18) SE48-2879

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham  
Staff None  
Discussion (7:07) None  
Motion **Motion to Issue as drafted.** (made by: Bennett) (seconded by: Champoux)  
Vote Carried unanimously

**F. Other Business**

- 1. Approval of Minutes, April 6, 0216: Approved by unanimous consent.
- 2. Reports:
  - a.CPC, Golding – Nothing
  - b. NP&EDC, Bennett – Nothing
  - c. Mosquito Control Committee, Erisman – A new larvicide has been approved
- 3. Commissioners Comment
  - a. Steinauer – The ponds have been opened.
  - b. Erisman – The end of Monomoy Road access is in terrible condition; the property owner on the right cut all the brush along the access which allows water to run down the path.
- 4. Administrator/Staff Reports

Motion to Adjourn: 7:12 p.m.

Submitted by:  
Terry L. Norton



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, May 4, 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, LaFleur, Champoux, Topham  
Absent Members: Golding  
Late Arrivals: None  
Earlier Departure:

Agenda adopted by unanimous consent

\*Matter has not been heard

### I. PUBLIC MEETING

#### A. Public Comment

**Steinauer** – Someone will be speaking about the infection of Black Oaks by cynipid gall wasps on Saturday May 7, 10 a.m. at Bartlett's Farm.

### II. PUBLIC HEARING

#### A. Notice of Intent

1. Edwin Snider RT – 1 Brock's Court (42.3.4-84) SE48-2834 **(Cont 05/18/2016)**
2. Edwin Snider RT – 1 Brock's Court (42.3.4-84) SE48-2835 **(Cont 05/18/2016)**
3. Zarella – 125 Wauwinet Road (12-8) SE48- 2856 **(Cont 08/10/2016)**
4. Zarella – 129 Wauwinet Road (12-4) SE48- 2857 **(Cont 08/10/2016)**
5. Pocomo Neighbours – 47, 53, 55, 57, 61, 63, & 69 Pocomo Road (Multiple) SE48-2874 **(Cont 05/18/2016)**
6. \*The Trustees of Reservations – Costaka Coaue Wildlife Refuge and Great Point (7-1.7) SE48-\_\_\_\_\_

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Fred Pollnac**, acting superintendent – Seeking to continue the 1995 management plan; no planned alterations.  
 Public None  
 Discussion **Erisman** – Asked if the plan includes management of invasive species.  
**Pollnac** – The plan was modified in 2000 to include invasive species but there is no current management being enacted; they are doing a survey. Asked for a continuance.  
 Staff Waiting to hear from Massachusetts Natural Heritage (MNH).  
 Motion Continued to May 18 without objections.  
 Vote N/A

7. \*The Town of Nantucket – Consue Springs off Union Street (55.1.4-15) SE48-2880  
 Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Kara Buzanoski**, Director Department of Public Works – This NOI is for installation of pipes and dredging for the new outfall to Consue Springs stormwater project. This will be coordinated with a Nantucket Islands Land Bank proposal for removal of invasive species.  
**Steve D'ambrosio**, GZA GeoEnviromental, Inc. – Reviewed resource areas. About 200 cubic yards of sediment material will be removed from Goose Pond requiring it to be dredged to elevation minus-5. Presented work to be done.  
 Public Emily Molden, Nantucket Land Council  
 Tom Kershaw, 2 Duck Pond Lane  
 Discussion **Champoux** – Asked if the sewer pipe in the middle of the old railroad is part of this scope of work.  
**Buzanoski** – No.  
**Steinauer** – Asked what would be done with the spoils of the pond; those might be toxic and full of phragmites propagules.  
**D'ambrosio** – Multiple samples have been taken from the pond and tested; they meet criteria for disposal at the land fill.

**Buzanoski** – That material will go into the digester; soil will be composted. Compost put out in landscaping waste is made available for general use; the other goes to the top of the land fill. Explained the steps that will be taken to ensure the phragmites don't end up in landscaping compost.

**Steinauer** – He is concerned about phragmites propagules going out to the public.

**Erisman** – Asked how much water that the ditch would normally handle will go into the pipe. Her concern is losing some of the naturally-occurring filtering of the runoff as it goes through the ditch.

**D'ambrosio** – Doesn't have that figure currently available. The ditch is mostly due to the stormwater.

**LaFleur** – Noted that the jacking a culvert is substantially different than digging a trench. Jacking will disturb a tremendous amount of area. Would like to see a detailed cross-section on the culvert pipe.

**Steinauer** – Asked if the railroad can handle heavy equipment.

**D'ambrosio** – The equipment to be used is conventional construction equipment. Will cap the existing culverts, install a sump pump, the pump line will discharge into an area that can dissipate the energy of the pump, then flow off into the saltmarsh. Turbid water will be trapped to allow sediment to settle out before going into the saltmarsh.

**Steinauer** – Asked if the additional culvert will expand the pond or keep it small.

**D'ambrosio** – With normal flow, it might be a little lower than it is today.

**Topham** – There is an 8 inch pipe; asked what that is or if it's trash.

**Molden** – Overall this will be a long-term net benefit for the area. Asked if one of the pipes will be for overflow or direct drain for stormwater. Suggested the board condition that soil containing phragmites be placed in compost that won't be made available. The file contained an old report showing modeling that speaks well to commissioner concerns about the level of the pond with the current pipes; water comes in on the high tide but doesn't flush out with the low tide. Would like to see reports after the work to show the pond levels changing with the tide.

**D'ambrosio** - The pipe Ms Molden asked about is a direct pipe.

**Steinauer** – There might be concern about the impact of this work on the ducks. Asked if any thought had been given to them.

**Buzanoski** – Believes that with the arrival of construction equipment, the ducks will stay away.

**Erisman** – Asked when the work will be done.

**D'ambrosio** – The work will probably take place in the fall and winter.

**Erisman** – Asked what sort of the dredging material will be sorted out by the catch basin.

**D'ambrosio** – It is for sediment.

**Kershaw** – Asked if the work would start this fall and how long it will last.

**D'ambrosio** – It is possible it could happen this year and take two or three months; the Town would like to move this project forward.

**Kershaw** – One concern is the storm surge coming through the open pipe and flooding the abutting properties.

**D'ambrosio** – In a storm event water does overtop the railroad. They are willing to look into something that might mitigate the storm surge into the pond.

**Erisman** – Noted that this will help the water flow back out as the tide goes out; right now water gets stuck.

**Kershaw** – Asked where the staging areas are.

Discussion about staging areas for equipment and the type of equipment that might be used.

**D'ambrosio** – The area is mapped as priority habitat. Asked for a 2-week continuance.

Waiting for MNH comments. He will draft a positive order for the next hearing.

Continued to May 18 without objections.

N/A

Staff  
Motion  
Vote

8. \*Meyer – 41 Dukes Road (56-327) SE48-2881

Sitting Steinauer, Bennett, Erisman, LaFleur, Topham

Recused Champoux

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Brian Madden, LEC Environmental** – Proposed sewer connections, abandonment of existing system, expansion of a deck, and installation of a drywell. Wetlands are north and west of the property. NE portion has two sump pumps running into the wetlands; plan to install a drywell and connect the pumps.

Public None

Discussion None

Staff Have everything needed to close.

Motion **Motion to Close.** C/B (made by: Champoux) (seconded by: Bennett)

Vote Carried 5-0

9. \*60 Madaket Road Nominee Trust – 60 Madaket Rd (41-200.1) SE48-2882
- Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **David M. Haines**, Haines Hydrogeologic Consulting – Repair of a failed septic system. Leech fields outside of 100 foot buffer to a wetland; a leech field just inside the 100-foot buffer to an isolated vegetated wetland will be abandoned and site graded. Included minor repair work to the house in this NOI. Installing a conventional Title V system with leech fields outside the buffer.
- Public None  
 Discussion None  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)  
 Vote Carried unanimously
10. \*Middle Slip LLC – 29B Old North Wharf (42.3.1-225.1) SE48-2883
- Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – For work to remove cluster of piles in Nantucket harbor between slips at the end of Old North Wharf; the piles would go back in at a later date. Have a sign-off from Division of Marine Fisheries. Work would be from a barge; installing a silt fence might cause greater disturbance than just removing the piles.
- Public None  
 Discussion None  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Topham)  
 Vote Carried unanimously
11. \*Nantucket Islands Land Bank – 17 Commercial Wharf & Unnumbered Lot New Whale Street (42.2.4-7 & 8) SE48-2885
- Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – Redevelopment of existing solid built pier at Petrel Landing; install steel sheeting bulkhead around toe of slope-stone revetment and back fill solid and facilitate handicapped access to the pier. Reviewed the landscape plan. Looking to dredge a portion of the area. Interests are purely recreational open to all users. Have done several eel-grass surveys; reduced the dredge footprint as a result; siltation curtains will be set and anchored by divers around the area of work. Resource areas: land subject to coastal storm flowage, coastal bank (stone revetment), land under the ocean, and land containing shellfish. Would agree to pre- and post-construction monitoring of the eel grass.
- Pam Newburg**, PhD – She has done the eel grass surveys and hasn't find a lot of shellfish in this area and the eel grass that is stable and well delineated. The dredging was cut back to avoid that habitat. There are some quahogs but it is not a significant shellfish habitat. There is a stormwater runoff pipe that hasn't helped the area. Explained how the field survey of the eel grass was done to delineate it properly.
- Erick Savetsky, Executive Director Nantucket Islands Land Bank  
 Rachel Freeman, Environmental Coordinator Nantucket Islands Land Bank  
 Sarah Alger, Sarah F. Alger P.C.
- Public Sarah A. Turano-Flores, attorney for David Muller, 13 Commercial Wharf  
 Milton Rowland, Chair Commission on Disability  
 Emily Molden, Nantucket Land Council
- Discussion Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP, for Rich Corey, 12 Commercial Wharf  
**Turano-Flores** – Reviewed the scope of the project. Concerns include certain performance standards that must be met and it is her opinion that those can't be met: flood control and erosion control functions and protection for marine fisheries and habitats. Reviewed components and how each relates back to the pertinent State and local performance standards. Requested the commission to continue this in order to perform a comprehensive assessment of this project. Noted that the Land Bank is required by their special legislation to keep land they require in predominantly natural and open state; this would be converted to a commercial wharf, which she believes is beyond passive recreation. That raises concerns under both the Land Bank act and Article 97 of the amendment to the Massachusetts Constitution requiring entities such as the Land Bank not to convert the use of open environmental space to more intensive use without a 2/3 vote of both houses of the State legislation.
- Steinauer** – He has concerns about the planting plan; this board has been pushing for more native genotypes rather than cultivars.  
**Erisman** – The large trees will ruin the wetland scenic views in an area where you can see the harbor. She is also concerned about the parking at the end the pier; the plan in the packet shows one parking spot.

**Gasbarro** – The plan in the packet is correct; the intent is to have an area of loading and unloading only. There is a gate to prevent vehicles from the pier. Explained the philosophy behind the loading area.

**Freeman** – The loading area helps meet Americans with Disabilities Act (ADA) compliance.

**Rowland** – Noted that though the access is being provided, the surface of the pier is not ADA compliant. Discussion about how to make the area more ADA compliant.

**Gasbarro** – Ultimately they will request a continuance. The intention is not to raise the pier above its current elevation. The steel sheeting might be slightly higher than the stone revetment. Other comments are addressed in the application. He can submit additional information.

**Steinauer** – Is this a new structure or a repair of an existing structure.

**Gasbarro** – There is an existing coastal engineering structure with a proposed immediate adjacent coastal engineering structure; there is no currently unprotected shoreline.

**Erisman** – She shares the abutter’s concern about changing the way stormwater is infiltrated.

**Steinauer** – The vertical surface adds to the reflection of wave energy; the stone absorbs that.

**Gasbarro** – The bulkhead would be similar in construction to what was approved recently for Easy Street.

**Molden** – Concerns included the eel grass and shellfish habitat and installation of the silt fence; that the fence will be installed with divers should be conditioned. Would be interested to see more details on follow-up monitoring and conditioning of any mitigation if necessary following that monitoring report.

**Steinauer** – Moorings would impact the eel grass.

**Gasbarro** – Moorings that will be impacted by the work are indicated on the plan. He has met with the Harbor Master about a transition to move moorings as needed. He will include supplemental information on the that.

**Molden** – Asked if there is still a moratorium on eco-moorings.

**Gasbarro** – Wouldn’t use helical moorings. He will provide information on the types of mooring that would be used to protect the eel grass. Replacing mooring would be handled by the applicant through the Harbor Master.

**Reade** – This is currently a location where people come to enjoy the view of the harbor; in its place will be a large dock with large vessels affecting the wetland scenic view. He will be back with his client’s own expert and further questions at the next hearing.

**Gasbarro** – Requested a continuance to June 1. Noted the proposed use meets with the Harbor Plan.

**Erisman** – There should be signage and handling of dog waste.

Staff Noted that this project is limited due to the geographical region, not jurisdiction.

Asked for written comments by May 27 before the June 1 hearing.

Motion Continued to June 1 without objection.

Vote N/A

**III. PUBLIC MEETING**

**A. Minor Modifications**

- 1. Cliff ACK Realty Trust – 96 Cliff Road (41-15) SE48-2066

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Paul Santos**, Nantucket Surveyors – Minor modification for tree removal of a distressed red maple; have been able to source a 6- to 8-inch red maple. Originally had two trees on the plan but willing to put in three. There is also a sunset red maple, which has habitat value and likes to keep its feet wet.

Public None

Discussion **Champoux** – Suggested keeping it a straight red maple, a swamp maple.

**Steinauer** – Stated that he spoke with Jenn Karberg, who recommended sticking with only one or two trees; over time too many trees would remove water from the wetland as they get larger.

Discussion about the distressed state of the existing red maple.

Consensus is to plant three trees in the event that one doesn’t survive.

The existing tree is on its way out.

Staff **Motion to Approve as a minor modification.** (made by: Champoux) (seconded by: Bennett)

Motion Carried unanimously

**B. Certificates of Compliance**

- 1. Twenty-Two Easton Nominee Trust – 22 Easton Street (42.1.4-12, 12.1) SE48-1646

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham

Staff Work permitted was never completed; closing out this Order of Conditions; there is an open Order of Conditions in place for this property.

Discussion None

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

Vote Carried unanimously

2. Walsh – 46 Shimmo Pond Road (43-77) SE48-939

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff This is to be invalidated; it's in compliance with current permits.  
Discussion None  
Motion **Motion to Issue.** (made by: Erisman) (seconded by: Champoux)  
Vote Carried unanimously

3. Walsh – 46 Shimmo Pond Road (43-77) SE48-2707

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff This was for repair damage to coastal bank. The work is completed and some monitoring has been provided. Suggested it be issued given further providing of information that is correct and reestablishment of vegetation.  
Discussion None  
Motion **Motion to Issue.** (made by: LaFleur) (seconded by: Bennett)  
Vote Carried unanimously

4. Kafer – 143 Wauwinet Road (11-8) SE48-2858

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff This is the first permit to be closed out for this site. For upgrade to septic system. It is installed correctly and is in compliance with the permit. Asked for on-going Condition 20: Board of Health test data be provided to ConCom.  
Discussion None  
Motion **Motion to Issue with on-going Condition 20.** (made by: LaFleur) (seconded by: Champoux)  
Vote Carried

**C. Orders of Condition**

1. Meyer – 41 Dukes Road (56-327) SE48-2881

Sitting Steinauer, Bennett, Erisman, LaFleur, Topham (Champoux recused)  
Staff This is pretty straight forward.  
Discussion None  
Motion **Motion to Issue as drafted.** (made by: Bennett) (seconded by: LaFleur)  
Vote Carried 5-0

2. 60 Madaket Road Nominee Trust – 60 Madaket Road (41-200.1) SE48-2882

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff This is pretty straight forward. Included the repair work to the house in this.  
Discussion **Erisman** – Noted that the work incurs into the 100-foot buffer only a little bit.  
Motion **Motion to Issue as drafted.** (made by: Bennett) (seconded by: Topham)  
Vote Carried unanimously

3. Middle Slip LLC – 29B Old North Wharf (42.3.1-225.1) SE48-2883

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff Noted a correction in the Department of Environmental Protection (DEP) number to be made. After the discussion, he will strike Condition 20 & Condition 21. Wants to keep Condition 19. The letter from the Division of Marine Fisheries indicated the site was not within a habitat area.  
Discussion None  
Motion **Motion to Issue as amended.** (made by: Champoux) (seconded by: LaFleur)  
Vote Carried unanimously

4. The Trustees of Reservations – Costaka Coaue Wildlife Refuge and Great Point (7-1.7) SE48-\_\_\_\_\_

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff Had instructions for a positive order. Asked for further thoughts on conditions. Can ask for a yearly report on what invasive species were pulled.  
Discussion **Steinauer** – They said they will be hand-pulling some invasive species; asked that be included.

5. The Town of Nantucket – Consue Springs off Union Street (55.1.4-15) SE48-2880

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
Staff Had instructions for a positive order. Asked for further thoughts on conditions. Will include the use of a tide gauge at the culvert. Will include a condition about the disposition of the dredged material.  
Discussion **Champoux** – There was concern expressed about ensuring the dredged material is kept separate from publicly available compost. Asked about the abutters request for a flood gate; the flow into the system shouldn't change much.  
**Erisman** – That would impede the in-flow; the flow out will be improved.

**D. Monitoring Reports**

- 1. 34 Shawkemo, LLC – 34 Shawkemo Road (27-3) SE48-2540
- 2. Cigarran – 25 East Tristam Avenue (31-1) SE48-2840
- 3. Giles RT – Off of Tennessee Avenue (60.1.2-33) SE48-2839

Sitting                     Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Staff                        These are improperly posted; will hold and repost for the next meeting.  
 Discussion                None

**E. Other Business**

- 1. Approval of Minutes April 20, 2016: Held
- 2. Enforcement Action
  - a. Meyer – 2 North Beach Street (42.4.1-64)

Sitting                     Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused                   None  
 Documentation           Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Staff                        This was formerly 2 North Beach Street and subdivided into 65 & 67 Easton Street. Without a ConCom permit, the owner installed a gravity sewer manhole with potential to tie into connections. It is within the State jurisdictional zone for land subject to coastal storm flowage, which alone requires a filing, as well as within local land subject to coastal storm flowage. There is an existing isolated vegetated wetland at 69 Easton Street and a potential isolated vegetated wetland on this property, which has never been approved with a clear delineation. Believes that how the manhole is sitting could directly impact that smaller isolated vegetated wetland. This would be the fourth enforcement order on this property; we should issue it out with the requirement to remove the unpermitted structures and restore the area and appear before the commission on May 18. Believes punitive action needs to be issued; this site will continue to be an issue if it is not definitively addressed.  
 Discussion                **Steinauer** – Asked if the board should ask them to come in first or level the fine at this time.  
                               **Staff** – Recommended having the owner come before the board then take punitive action when they are present.  
 Motion                    **Motion to Issue the Enforcement Order 2 North Beach Street (aka 35 & 37 Easton Street).** (made by: Bennett) (seconded by: Topham)  
 Vote                        Carried unanimously

- b. Nantucket Island Land Bank, 4 Polpis Harbor Road and 286, 288, & 290 Polpis Road (25-3.1, 33, 34, &3)

Sitting                     Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham  
 Recused                   None  
 Documentation           Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Staff                        As noted during the site visit, some areas have been significantly cut; the work done crosses a number of properties and he’s not sure of the limits as relates to the stand of cut holly trees. A good percentage of that is within the jurisdictional area of a wetlands; at 290 Polpis Road, there are tracks through the vegetated wetlands from vehicles accessing the work site to include additional areas of cutting within resource areas on 286 & 288 Polpis Road. The enforcement order would be issued for the work that is done.  
 Representative           Erick Savetsky, Executive Director Nantucket Islands Land Bank  
                               Bob Gardner, Chair Land Bank Commission  
                               Neil Patterson, Commissioner Land Bank Commission  
                               Rachel Freeman, Environmental Coordinator Nantucket Islands Land Bank  
                               Sarah Alger, Sarah F. Alger P.C.

Discussion                **Erisman** – There was clearly fertilizer applied to the path; asked if that should be separate from the tree cutting.  
                               **Staff** – At this time, yes.  
                               **Champoux** – We need to ensure something like this doesn’t happen again. Whoever did this work shouldn’t be doing that kind of work in our community. That whole stand of holly is gone; he doesn’t believe there will be much regeneration from any of them. Asked: 1) where did the directive come from; 2) how could a landscaper think what was done is okay. Just because someone is asked or told to do something does not remove that person from culpability. He wants the person who gave the directive and the person who did the work before this board.  
                               **Topham** – That work is extreme negligence.  
                               **Savetsky** – Noted that frequently they get requests to cut back growth. The house that requested this work is quite a distance from the stand and seemed it was a pruning exercise. He and his staff are horrified by how it turned out. Being within wetland jurisdiction is another mistake that was made. A significant error was not devoting sufficient time to ascertain the impact of the potential work. Explained the process usually taken for such requests for pruning of growth; noted the Land Bank will have to reassess that process and do what is necessary to mitigate and repair the damage.  
                               **Erisman** – As a public citizen, she feels what happened is horrible. In her opinion, private owners shouldn’t be making requests of the Land Bank without the public’s knowledge; doing that serves a specific person over the good of the general public. Reiterated her extreme concern of the vehicles tracking through the wetland.

**Champoux** – Who did this work is not a professional arborist; we need to get to a point that establishes some metrics of professionalism in the industry.

**Savetsky** – Noted that the road used is under a permit to build bridges across wetlands for mowing access.

**Erisman** – Everyone needs to be aware of the need for habitat, both wetlands and trees.

Discussion about having the person who did the work come before the board to explain why the trees were cut as they were.

**Gardner** – This is an unfortunate circumstance resulting from a number of factors. The commission is reviewing what happened to take the necessary steps to ensure it doesn't happen again. Affirmed the commitment of the staff and Commission to maintaining their properties in a responsible manner.

**Erisman** – Asked who okayed the work.

**Savetsky** – It was reviewed and approved by staff under his attention. It should have gone to the Commission.

**Gardner** – Explained the process of presenting maintenance plan to the commission. The Land Bank takes responsibility. The Commission is committed to putting in the safeguards to ensure a similar situation does not occur again.

**Erisman** – Feels private owners should not be able to request a view prune.

**Steinauer** – Noted that ConCom can't tell the Land Bank how to manage their property; asked the board to stick to the issues at hand.

**Patterson** – Going forward, he wants to ensure that if any property owner wants a view shed cut, it must be on the agenda and come to the Commission for the decision.

**Staff** – The Land Bank understands something terrible happened and they are taking steps to ensure it doesn't happen again. Our role is to figure out how to make our regulations hold to a violation that took place and get all involved parties to the table to discuss what took place to put into action a plan to mitigate the situation and/or evaluate what happened within ConCom jurisdiction.

**Freeman** – Noted that usually Jeff Pollock, Property Management supervisor, contacts her about all work requiring permitting. Suggested that perhaps this project was rushed and this is how it was missed.

**Erisman** – Asked if the land is within MNH jurisdiction.

**Freeman** – It is.

**Erisman** – Noted that the house that requested the pruning has also cut down all shrubbery on the property. Asked if a buffer at the end of that property for mediation could be part of this enforcement action.

**Staff** – It depends on whether or not they are in compliance with their existing permit SE48-2761. Work that is not on their property is not directly their responsibility. There is some cutting that has been done on their property that he would like to quantify as well as some small issues in other spots that need to be addressed. He wants as many people involved to come before the board to get as much information as possible; the board needs to know exactly what happened on which property and all owners involved know what is expected of them as steward of their properties. There is a clear violation on 4 Polpis Road for which an enforcement order would be issued; read the enforcement order.

**Freeman** – Has a proposal for steps to restore the area she would like the board to take a look at. Reviewed the draft plan for restoration with boundary lines and resource areas.

**Champoux** – It is spring and those trees that can sprout will show it; however, for some there is nothing left to sprout. If the holly is going to be replaced, it has to be in kind and bigger than saplings.

**Staff** – Procedurally, if a vehicle is going to be brought into the area, its access has to be made clear and what steps will be made to protect the resource areas from further damage. It will be very helpful to get the wetland buffers on record.

**Steinauer** – Suggested Ms Freeman talk to Brian Madden about what plants to put into the wetlands.

**Staff** – He has prepared Enforcement Orders for all four properties in and around the site of the cutting; they all read the same.

Motion

**Motion to Issue Enforcement Orders for 4 Polpis Road, 286 Polpis Road, 288 Polpis Road, and 290 Polpis Road.** (made by: Topham) (seconded by: Champoux)

Vote

Carried unanimously

- 3. Reports:
  - a. NP&EDC, Bennett
  - b. Mosquito Control Committee, Erisman
- 4. Commissioners Comment – None
- 5. Administrator/Staff Reports – None

Motion to Adjourn: 7:12 p.m.

Submitted by:  
Terry L. Norton