



CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, February 10, 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 4:04 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: None
Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Public Comment: Carlson – The Board of Selectmen workshop today will be focused on water quality and the Comprehensive Wastewater Management Plan; the workshop starts at 6 p.m.

II. PUBLIC HEARING

A. Notice of Intent

1. Lily Pond R.T. – 27 North Liberty Street (41-158 Lot A) SE48-2678 **(Cont. 03/23/2016)**
2. Lily Pond R.T. – 29 North Liberty Street (41-158 Lot B) SE48-2677 **(Cont. 03/23/2016)**
3. Lily Pond R.T. – 31 North Liberty Street (41-158 Lot C) SE48-2679 **(Cont. 03/23/2016)**
4. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834
5. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2835

Sitting	Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
Recused	None
Documentation	Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
Representative	Mark Rits , Site Design Engineering – His team received a letter at 5:42 p.m. on February 9 from an abutter; it had a delineation that was different than the delineation available at the site visit. His team wants time to evaluate that information. Asked for a continuance.
Public	Gavin Cockfield, Davis Malm & d’Agostine , for Marsh Fader – This has been extended multiple times. Feels it is inconsiderate to those of the public who make an effort to attend especially those who have travelled a long distance. Stated that the information the representative received was neither new nor unanticipated. Stated that the applicant had all necessary information for several weeks. Asked the board to indicate this will not be continued any further. It looks like the entire property for the location of the house is a resource area.
Discussion	Steinauer – This is a complicated situation and the board wants to get it right and ensure that all information is available to everyone. Pointed out that it is the applicant’s right to ask for a continuance. Discussion about board members who might not be able to attend the next meeting.
Staff	None
Motion	Continued to 2/24/2016 without objection.
Vote	N/A
	6. Quidnet Properties, LLC – 84 Quidnet Road (21-100 & 101) SE48-2855
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 – The Board of Health has indicated they will not require an I/A system for this site; that letter is on file. They have not yet heard from Natural Heritage Endangered Species Program (NHESP). Asked for a continuance
Public	None
Discussion (4:17)	No discussion at this time.
Staff	None
Motion	Continued to 2/24/2016 without objection.
Vote	N/A

7. Zarella – 125 Wauwinet Road (12-8) SE48- 2856

8. Zarella – 129 Wauwinet Road (12-4) SE48- 2857

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 – He is awaiting the NHESP response. Asked for a continuance.
 Public None
 Discussion No discussion at this time.
 Staff None
 Motion Continued to 2/24/2016 without objection.
 Vote N/A

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

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Dave Fronzuto**, Office of Emergency Management (OEM) and Safety Coordinator – Erosion damage by recent storms was not so severe as anticipated. However, believes a site visit might be a benefit as end scour is severe. Sand from dredging projects will be used as sacrificial sand on these projects; grading starts ½ inch from the top of the bank; plantings include beach grass and a shrub and seed mix. If the board wants a site visit, he will ask for a continuance.
 Public **Lucy Dillon** – Asked if this has been surveyed as the GIS is not correct. On February 2, she took photos showing the foot path access with indications of vehicle traffic down to the beach.
 Discussion (4:25) **Erisman** – Suggested getting the Department of Public Works in so that ConCom can explain what sort of “rubble” is appropriate for use in resource areas.
 Staff Will schedule the site visit for Tuesday, February 16 at 3 p.m. The shrub component of the planting plan is small clusters of bayberry or beach plum. Reviewed the seed mix, which is salt tolerant. This can be conditioned for the use of a post and rail or boulders to prevent vehicles from driving onto the beach. He will draft a positive order.
 Motion Continued to 2/24/2016 without objection.
 Vote N/A

10. Town of Nantucket – Madaket Road Layout (Adjacent 60-140) SE48-2854

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Dave Fronzuto**, OEM and Safety Coordinator – There are aerials in the packet showing the erosion since 1998. Reviewed the proposal: remove the black top, fill the gully, move the jersey barriers and backfill with sand, and place sacrificial sand. All the work is within the road layout. This is critical because of the threat to Ames Street, which is the only access for residents of Smith’s Point. Sand from dredging projects will be used as sacrificial sand on these projects.
 Public **Anne Menz**, 8 Ames Street – There was a wash over from the ocean into the creek this past storm.
Charlie Stott, 42 Long Pond Drive – Supports this initiative as long as there are no adverse impacts.
Bruce Mandel, 10 Midland Avenue – Took a video of the asphalt; Madaket Road has eroded significantly resulting from Monday’s storm. Thinks the project should be engineered to protect the Chicago beach parking where the dune is also eroding. There are tanks, wires, pipes, other infrastructure exposed along Madaket beach. He supports moving forward with this as soon as possible.
Ruth Hodges, 6 Ames Ave – Expressed her concern about the erosion and the need to move forward with this.
 Discussion **Erisman** – The sea levels are rising and the storms are getting worse; that is our future.
Steinauer – Asked about efforts to infiltrate water coming down the road.
Fronzuto – There is no storm drainage out there; there is a need to install a catch basin at the end of Ames Street.
 Discussion about including this in the site visit.
Steinauer – Asked that Mr. Mandel’s pictures and video be forwarded for inclusion in the packet.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

11. Town of Nantucket – Hummock Pond Road (Adjacent 83-30) SE48-2853

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Dave Fronzuto**, OEM and Safety Coordinator – The situation is similar to Madaket but not so critical. Same protocols as for Madaket. Work has to be done by June 1 on all three projects. Would like to have this closed today. Sand from dredging projects will be used as sacrificial sand.
 Public None
 Discussion Discussion about including this in the site visit.
Erisman – Asked about signage.
Fronzuto – Reviewed the signage for alternate routes and explaining the work.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

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

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**, Blackwell and Associates Inc. – For upgrade of existing septic to an I/A system mounded to 5 feet; work is within the barrier beach area and 100-foot buffer to isolated vegetated wetland. Requesting a waiver to allow the septic system within the 100-foot buffer on the basis of long term net benefit and no reasonable alternative. Will use sand fill and beach grass.
 Public None
 Discussion (4:52) **Steinauer** – Asked about the groundwater and the direction it flows.
 Staff Had a similar application down the beach from here in which they spent a great deal of time trying to determine the direction of the groundwater flow; the result was indeterminate. This board determined that when within the barrier beach to go with an I/A system. Have everything needed to close.
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

13. *Five on a Dime LLC – 8 Pilgrim Court (41-217.3;217.4 & Portions of 217) SE48-2859

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Recused None
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
 Representative **Mark Rits**, Site Design Engineering – This had been subdivided but is being recombined. There is an off-site bordering vegetated wetlands previously delineated in August 2012 for a brush clearing permit which has expired. The request is for construction of a retaining wall and grading outside the 50-foot buffer to the bordering vegetated wetlands. Small amount of grading between wall and property boundary, which is just inside the 50-foot buffer. Later there will be application for house and site work. Currently this is just lawn.
 Public None
 Discussion (4:58) None
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

III. PUBLIC MEETING

A. Minor Modifications

1. Oakhill Investments LLC-341A Madaket Road (60.2.4-64.5) SE48-2828 **(Cont 03/09/2016)**
2. Scavo – 8 Galen Avenue (29-113) SE48-2653

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**, Blackwell and Associates Inc. – A 120 square foot (SF) storage shed was proposed to be removed; it has instead been relocated on the site. The resource area is land subject to coastal storm flowage.
 Public None
 Discussion (5:01) None
 Staff This cleans up the plan of record before applying for the Certificate of Compliance. Recommend this can be issued as a minor modification.
 Motion **Motion to Issue as a minor modification.** (made by: Bennett) (seconded by: Topham)
 Vote Carried unanimously

3. Nantucket Island Land Bank – 158 Orange Street (55-61.1) SE48-2689
- Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
- Recused None
- Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
- Representative None
- Public None
- Discussion (5:04) None
- Staff This was for removal of the structure and shifting of piers and walkways to open for public use. They are asking for a planting of winterberry along the property line as visual screening for the neighbor. They would also like to replant outside the wetland area using native stock; they want the species on the record. Recommend this can be issued as a minor modification. He will add no cultivars are allowed.
- Motion **Motion to Issue as a minor modification.** (made by: Bennett) (seconded by: Champoux)
- Vote Carried unanimously
4. Sconset Beach Preservation Fund- 87-105 Baxter Road (48;49-various) SE48-2824
- 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**, Blackwell and Associates Inc. – A catch basin was installed with a drainage pipe that went behind the geo-tubes and is working very well; however, water is accumulating on the two vacant lots and could run over the bank and destabilize it. He wants to get that water to the catch basin by means of a small plastic yard basin and 4-inch pipe leading to the catch basin. This can be installed in one day. The walkway was damming the water pushing it over the bank; will do minor grading to urge water toward the basin.
- Public **Emily MacKinnon**, Nantucket Land Council – Asked if this is tied to the order that permitted the geo-tubes. Asked if the chair if the applicant is current in monitoring reports for the commission. There is no concern about the proposal; the concern is whether or not it is appropriate for the commission to decide on a minor modification without having seen the as-built plan.
- Discussion (5:07) **Erisman** – Asked why there isn't a planting plan for the area. There should be scrub on the face of the bluff. Doesn't think meadow mix is helping the situation.
Gasbarro – He was not part of that application but can get the information. Scrub brush catches the wind and the roots can be pulled over in the wind.
 Discussion about the best planting mix for the top of the bluff.
Erisman – Expressed concern that SBPF is “patching holes” as they crop up rather than coming up with a solid long-term drainage plan.
Champoux – Feels this is a fairly innocuous plan for getting the water to the catch basin.
Gasbarro – He tied this to the geo-tube permit because he felt it most appropriate since the drainage system was part of that order. This work is limited 87 & 91 Baxter Road.
Erisman – Stated there were photos posted on line indicating the face of the geo-tubes might not have been covered when the last storm hit; asked if the template had been left uncovered. If so, that is a problem.
Bennett – Stated he visited the site and noted someone pushing sand around.
Steinauer – It is in their best interest to keep the tubes covered.
Gasbarro – Stated that he didn't want to submit an application with an as-built plan that didn't show the project including the drainage system, which was only completed within the past two weeks. He will pass on the information to the appropriate person that the commission is requesting the sand-delivery report.
- Staff Asked for a memorialization of what will be going back on the dirt portion; if the site is going to be regraded, we need to know what will be used to stabilize it. In regards to the monitoring reports, he discussed his concern with Mr. Gasbarro that, with the project work having finished in January, the as-built will be filed in a timely manner. They are not behind in monitoring reports because neither of the two winter storms hit the full storm-reporting criteria. They are behind for getting the as-built plan for the geo-tube structure in. The first quarterly survey is coming due; they have just finished the field work, which includes the partial bathometric surveys. Stated that the face of the structure was uncovered by the first winter storm; we need to see the sand delivery report and the daily record that shows what work was being done on what days. The nature of minor modification applications is that they are for project that are on-going. This could be conditioned to have the as-built plan submitted before the next meeting. This qualifies as a minor modification.
- Motion **Motion to Issue as a minor modification.** (made by: LaFleur) (seconded by: Bennett)
- Vote Carried 5-1//Erisman opposed

B. Certificates of Compliance (5:29)

1. Smith – 6 Old North Wharf (42.3.1-19) SE48-1855

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff This was for installation of a new pile foundation; the work is in compliance. Recommends approval with no on-going conditions.
 Discussion None
 Motion **Motion to Issue the certificate of compliance.** (made by: Topham) (seconded by: Champoux)
 Vote Carried unanimously

2. Fayaway Realty Trust – 11 Lincoln Avenue & 22 Jefferson Avenue (30-136&285) SE48-2810

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff This was for installation of a new foundation and other work; the work is in compliance. Recommends approval with no on-going conditions.
 Discussion None
 Motion **Motion to Issue the certificate of compliance.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

3. Gallahar – 2 Horn Beam Road (21-118.5) SE48-2667

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff This project included an amended order of conditions for removal of parts of an existing dwelling, construction of new additions, relocation of septic and utilities, and replace patio with a deck. The work was completed in substantial compliance. Recommends approval with no on-going conditions.
 Discussion None
 Motion **Motion to Issue the certificate of compliance.** (made by: Bennett) (seconded by: LaFleur)
 Vote Carried unanimously

4. Madaket Wheelhouse LLC – 13 Massachusetts Avenue (60-75) SE48-2825

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff This was for removal of unpermitted septic; the work is in compliance. Checked with the Board of Health, which has no issues. . Recommends approval with continuing Condition 19: tight tank to be pumped upon closing of the house for the season.
 Discussion None
 Motion **Motion to Issue the certificate of compliance.** (made by: Topham) (seconded by: Bennett)
 Vote Carried unanimously

5. Town of Nantucket, Planning Office – Hummock Pond Road /Milk Street-Cisco Beach (66-1 & 129) SE48-2437

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff For the Hummock Pond Road Bike Path, the Town acknowledges and reports show that the wetland replication area had a successful season; the order for that area is not being closed. The request is for a partial certificate for the bike path itself.
 Discussion None
 Motion **Motion to Issue as a partial certificate of compliance.** (made by: Champoux) (seconded by: Bennett)
 Vote Carried unanimously

6. Nantucket Island Land Bank – 260 Milestone Road (72-48) SE48-2656

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Topham
 Staff For the installation of the water main and irrigation system for The Greens and Skinner. The water main is installed in compliance. Recommends approval with no on-going conditions.
 Discussion None
 Motion **Motion to Issue as a partial certificate of compliance.** (made by: LaFleur) (seconded by: Bennett)
 Vote Carried unanimously

C. Orders of Condition (5:38)

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

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham
 Staff This is the standard order for an I/A system. The resource areas are coastal dune, barrier beach, land subject to coastal storm flowage, and buffer to a bordering vegetated wetland. There is a performance standard for barrier beach which allows for the up-grade and maintenance of an existing septic system to the best available technology.
 Discussion None
 Motion **Motion to Issue as drafted.** (made by: Bennett) (seconded by: Champoux)
 Vote Carried unanimously

2. Five on a Dime LLC – 8 Pilgrim Court (41-217.3;217.4 & Portions of 217) SE48-2859

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham
 Staff For a retaining wall and grading outside the 50-foot buffer for a wetland. No waivers were required.
 Discussion None
 Motion **Motion to Issue as drafted.** (made by: Topham) (seconded by: Champoux)
 Vote Carried unanimously

D. Extension for Order of Conditions

1. Kafer – 143 Wauwinet Road (11-8) SE48-2536

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham
Staff For expansion and addition to the second floor, removal of concrete area, construction of walkway, raising of existing deck, and planting of beach grass. The plan was to pick everything up to allow the sand to pass underneath. Asking for three 1-year extensions. They are in compliance with the permit.
Discussion (5:41) **Erisman** – Asked if the NOI plan reviewed earlier is included this work. (No)
Motion **Motion to Issue three 1-year extensions.** (made by: LaFleur) (seconded by: Bennett)
Vote Carried unanimously

E. Enforcement Actions

1. Maine Ave Trust - 12 & 14 Maine Avenue (60.3.1-431 & 463)

Sitting Steinauer, Bennett, Erisman, LaFleur, Champoux, Golding, Topham
Staff This is perched to go over onto the beach. This is a “friendly enforcement” that orders them to move the house out of peril and remove the infrastructure. They can come back with a new location for the house and the septic. This will move about 100 feet back. An enforcement action allows matters to take place faster.
Discussion (5:43) **Bennett** – Asked about the protocol on the underground infrastructure.
Staff – We have been asking for removal so that septic tanks don’t end up on the beach.
Motion **Motion to Issue the Enforcement Action.** (made by: Champoux) (seconded by: Bennett)
Vote Carried unanimously

F. Other Business (5:47)

1. Approval of Minutes: 01/27/2016 – Approved by unanimous consent
2. Monitoring Reports: None
3. Reports:
 - a. NP&EDC, Bennett – State is putting together an advisory board to review off-shore sand mining requests.
 - b. Mosquito Control Committee, Erisman – She is officially on the commission.
4. Commissioners Comment
 - a. Discussion about mosquito borne diseases and range of the newest identified disease.
 - b. Erisman – The rubble fill the Town is using, it’s a mix of concrete and sand and put it at the end Monomoy.
 - c. Bennett – Asked about Gosnold snow fence. Staff has been down there.
5. Administrator/Staff Reports

Motion to Adjourn: 5:58 p.m.

Submitted by:
Terry L. Norton