



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, October 19, 2016 5:00 P.M.  
4 Fairgrounds Road, Training Room

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

Called to order at 5:02 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator  
Attending Members: Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
Absent Members: None  
Late Arrivals: None  
Earlier Departure: None  
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 – 2 Brock’s Court (42.3.4-84) SE48-2834 (**Cont 11/02/2016**)
2. Zarella – 125 Wauwinet Road (12-8) SE48- 2856 (**Cont 01/18/2017**)
3. Zarella – 129 Wauwinet Road (12-4) SE48- 2857 (**Cont 01/18/2017**)
4. Larusso – 316 Polpis Road (25-7) SE48-2922

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Joe 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 was continued for Massachusetts Natural Heritage; got a response in that it is not subject to the Wetlands Protection Act but want a management plan. He has asked for two waivers: maintain an endangered species area from the 25-foot buffer to the wetland boundary and for the structure foundation within two feet of the water table. The redesign is to set the house farther away from the resource boundary. Explained the endangered species management plan and the endangered plant.

Public None

Discussion (5:03) **Erisman** – Asked if both the pool and basement are within two feet of high groundwater.  
**Haines** – Yes; however no dewatering is anticipated.

Staff Have everything needed to close.

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

Vote Carried unanimously

5. \*Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 (**Cont 11/02/2016**)
6. \*Alan A. Shuch Trustee – 45 Quidnet Road (21-21) SE48-\_\_\_\_\_

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

Recused None

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

Representative **Bob Emack** – This request is for work on an existing studio on a coastal beach and land subject to coastal storm flowage. He proposes to lift three feet to elevation 10; all work to be done by hand and material walked in. The foundation is part solid CMU and part piers; the solid foundation will have flood vents; also they must add stairs. Also proposing to add a monitoring system to the existing septic pump to ensure proper working order. He has not yet heard from Massachusetts Natural Heritage.  
**Sarah Alger**, Sarah F. Alger P.C. – This was a cottage about 18 years ago. The current owner reshingled and renovated into a cabana when he purchased the property. It is used only seasonally and the septic pump is blown out at the end of the season. The level of the pond is rising and in the winter is lapping at the side of the house.

Public None

Discussion (5:09) **Erisman** – Asked what time of year the work would be done and about the leach field.  
**Emack** – When possible. Noted the leach field is at a higher elevation. Asked for a 2-week continuance.

Staff There are three letters from direct abutters in support of this project.  
The pond is being opened October 24, 2016, so will be at its lowest for several months.

Motion Continued to 11/02/2016 by unanimous consent.

Vote N/A

7. \*Reyes – 19 East Creek Road (55-60) SE48-\_\_\_\_\_
- Sitting Bennett, Erisman, Steinauer, 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 – A pile supported pier and dock was permitted in the late 1980s and has a Chapter 91 license; the house dates to the early 1980s and is on public sewer and water. The resource areas are the saltmarsh, land subject to coastal storm flowage, and a policy coastal bank under Department for Environmental Protection (DEP). The existing first floor is at Elevation 11 above both current velocity zones. The proposal is to demolish the existing structure and construct a new building footprint groundcover with about the same area of footprint; all other is decking. He has filed with Natural Heritage and Endangered Species Program; he has not heard back from Massachusetts Natural Heritage in regards to the Endangered Species Act (MESA). The proposal will require waivers; it's within the 25-foot setback for land subject to coastal storm flowage and 50-foot setbacks of the bank and within two feet of high groundwater.
- Steven Cohen**, Cohen & Cohen Law PC – The buyer would like to place the new structure away from the saltmarsh and spread out more; it will be a larger house but not huge. Improvements include: out of the flood zone, away from saltmarsh, and removal of invasive species. There was a comment about the effect on the wetland scenic view; he believes the new structure will be less intrusive with a more organic design. If the board is comfortable with the concept, they will come back with a more fleshed-out design.
- Public **Emily Molden**, Nantucket Land Council – She will hold off on detailed comments until a more complete house design is presented. She thinks there's value in pulling it away from the saltmarsh.
- Discussion (5:19) Discussion about the proposed house compared to the existing structure.  
**Erisman** – Asked why the garage is not remaining as a slab on grade.  
**Santos** – The DEP required that it be elevated on pilings.  
**Bennett** – Confirmed that the new foot print is the same area as the existing structure.  
**Champoux** – Asked if there was a sense as to the height.  
**Cohen** – He believes the new structure will be kept at 1½ stories; he doesn't have the exact ridge height.  
**Erisman** – Asked if there is a sense of the amount of decking versus living space; more deck less living would be a better way to go.  
**Cohen** – There will be deck space; the proposed ground cover footprint is 1600 square feet.  
**Erisman** – Asked if there would be a protocol for handling debris.  
**Santos** – That will be part of the permit.  
**Golding** – Would like to see a proper plot plan. If there was no house here, ConCom would not permit a new one; noted that they are essentially asking to shoe-horn in a larger building; he feels it should be smaller rather than larger.  
**Erisman** – Agrees with Mr. Golding. There will be an increase of the impact in terms of more people and more cars. The existing structure doesn't stick out as much as some of the newer homes.  
**Champoux** – The garage being brought into compliance is a reasonable request. There will be a lot of construction in a resource area. More decks versus living space is a valid point in regards to wetland scenic views.  
**LaFleur** – He would like to see more detail on the new building.  
**Steinauer** – He is willing to trade moving away from the resource areas for exposure; the scenic view is from the deck into the marsh.  
**Cohen** – They can come back with a more complete plan in two weeks. Asked for a continuance.
- Staff The board has two weeks to review; the applicant is looking for surety that they are headed in the right direction that could receive a permit. Suggested the board discuss reasonable choices for views and setbacks and height; those parameters of work can be conditioned.
- Motion Continued to 11/02/2016 by unanimous consent.  
 Vote N/A
8. \*Thirty-Six Pocomo Road N.T – 36 Pocomo Road (14-79) SE48-\_\_\_\_\_
- Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Brian Madden**, LEC Environmental – This is a restoration Notice of Intent in response to an Enforcement Order issued over the summer. There are two isolated vegetated wetlands wholly on the property and two extending onto the property; he's flagged the wetlands associated with berry shrimp and mean high water associated with isolated land subject to flooding. Reviewed the extent of the unpermitted work done and proposed work to bring the site back into compliance. The total restoration area is 23,574 square feet (SF); disturbed wetland areas total 7,225 SF. Some proposed plants in the wetlands include: red maple, swamp white oak, high-bush blueberry, winterberry, and sweet pepper bush. Ground cover is to include: native sedges, rushes, and ferns. They will strip the planted meadow grasses and hydro-seed the area. Within the buffer zone: for upland proposing native white oaks, eastern red cedar, and hickory will be planted in the upland areas; shrubs such as bayberry, American hazelnut, and arrow wood. The meadow grasses there will remain with shrubs and saplings added. Propose a 2-year monitoring plan.

Public None  
 Discussion (5:52) **Erisman** – Asked if he has been able to confirm the meadow grass is not invasive love grass.  
**Madden** – He doesn’t believe it is the weeping love grass; if it is, it will be removed and reseeded with native plants.  
**Champoux** – The meadow areas should be a country mix. He thinks four or five years of monitoring might be best.  
**Erisman** – Asked if there will be any irrigation.  
**Madden** – He would like to reserve the right for that; it will help the saplings. He will provide additional information on that, though he’s sure field adjustments will be necessary.  
**Steinauer** – Might need an annual cover crop to protect the permanent cover plants as they grow.  
**Madden** – Asked for a 2-week continuance.

Staff This was informally discussed at the last meeting in regards to on-going enforcement; so the board has the ability to require work it feels must be done before issuance of the Order of Conditions.  
 For large projects like this the percentage has gone between 75 and 95 percent. He prefers closer to the higher level with monitoring. This is a three-year permit so he has to puzzle out a way to reach into the future.  
 This could be conditioned to require a work log be submitted to the commission to show work done on a weekly basis.

Motion Continued to 11/02/2016 by unanimous consent.  
 Vote N/A

**B. Amended Orders of Conditions**

1. Hummock Pond Realty Trust – 86 Hummock Pond Road (56-117) NAN-079

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Recused None  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative **Brian Madden**, LEC Environmental – Reviewed the previous discussion. He has provided information on the dry well; the pipe is not perforated and the well will be planted over with native material.

Public None  
 Discussion (6:15) None  
 Staff Recommend close and issue  
 Motion **Motion to Close and Issue.** (made by: Steinauer) (seconded by: Champoux)  
 Vote Carried unanimously

**III. PUBLIC MEETING**

**A. Certificates of Compliance**

1. Diggle – 22 Folger Avenue (80-41) SE48-2701

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff This was for a septic repair/upgrade and removal of retaining wall. The septic is in compliance and retaining wall removed and soils stable. Recommend this be issued.  
 Discussion (6:18) None  
 Motion **Motion to Issue.** (made by: LaFleur) (seconded by: Champoux)  
 Vote Carried unanimously

**B. Orders of Condition**

1. Larusso – 316 Polpis Road (25-7) SE48-2922

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff Much is related to the MESA, so he has attached their letter into the order to incorporate their conditions. This is conditioned for no material within the 50-foot buffer and no permanent dewatering. He will add Condition 22 about the pool being pumped out not drained and Condition 23 stating it can’t be treated between November 1 and May 1.  
 Discussion (6:19) **Golding** – There had been discussion about pumping the pool water and removing it from the site.  
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded by: LaFleur)  
 Vote Carried unanimously

2. Discussion about possible conditions for 45 Quidnet Road project.

**C. Extension Requests**

1. Hither Creek Boatyard – 20 North Cambridge Street (130-87) SE48-2141 (**Reissue**)
2. Hither Creek Boatyard – 20 North Cambridge Street (130-87) SE48-2109 (**Reissue**)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff These were reissued and not recorded; now they can’t find them. They were extended to August 18, 2017.  
 Discussion None  
 Motion **Motion to Issue the extensions for SE48-2141 and SE48-2109.** (made by: Champoux) (seconded by: Topham)  
 Vote Carried unanimously

**D. Other Business**

1. Approval of Minutes: 10/05/2016. (Champoux – On MAK Daddy Trust, correct, “Thinks an impervious driveway is a big benefit” to read, “Thinks a pervious driveway is a big benefit.”) **Motion to Approve as amended.** (made by: Steinauer) (seconded by: Topham) 6-0//Golding abstain.
2. Enforcement Actions (6:30)
  - a. Reviewed status of existing actions.
  - b. Followed up on another cottage in Quidnet; there are some “suspicious” looking pipes. Staff talked to Roberto Santamaria, Health Department Director, about the existing septic. There are some issues; one pipe is topped by a garden hose that goes nowhere.
3. Reports:
  - a. CPC, Golding – Completed the first round of reviewing applications.
  - b. NP&EDC, Bennett – Nothing
  - c. Mosquito Control Committee, Erisman – Nothing
4. Commissioners Comment
  - a. Bennett – Asked about the grey water issue. Staff – He has been figuring out how to better manage that and get information on it. He is trying to get the boat basin and water company to work together for monitoring. He is talking with Mr. Santamaria about a joint Board of Health/ConCom meeting to discuss items that overlap such as grey water and septic.
5. Administrator/Staff Reports
  - a. Asked if the board might want to review the regulations once every-other month through the winter and/or every two months bring in experts to discuss specific topics. Any place handicap accessible and available to the public are valid meeting sites. Discussion about possible topics for special discussion and public education. Some discussion on regulations could include: making the application to switch from septic to sewer an RDA and adoption of a schedule of fines.

Motion to Adjourn: 6:47 p.m.

Submitted by:  
Terry L. Norton