



CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, November 2, 2016 4:00 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 4:03 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator; Terry Norton, Town Minutes Taker

Attending Members: Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

Absent Members: None

Late Arrivals: Erisman, 4:07 p.m.

Earlier Departure: None

Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Public Comment – Carlson announced that supplemental information deadline for the next meeting is Thursday, Nov 10.

II. PUBLIC HEARING

A. Notice of Intent

1. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834(**Cont 11/16/2016**)
2. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 (**Cont 11/16/2016**)
3. Nantucket Islands Land Bank – 17 Commercial Wharf & Unnumbered lot New Whale Street (42.2.4-7&8) SE48-2885 (**Cont 12/14/2016**)
4. Alan A. Shuch Trustee – 45 Quidnet Road (21-21) SE48-2928

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

Recused None

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

Representative Bob Emack
Sarah Alger, Sarah F. Alger P.C.

Public None

Discussion (4:06) None

Staff This was waiting for determination from Massachusetts Natural Heritage; they provided a letter of no take and no adverse impact under wetland act.

Have everything needed to close.

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

Vote Carried unanimously

5. Reyes – 19 East Creek Road (55-60) SE48-2929

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 – Reviewed NOI for demolition and reconstruction of a single-family dwelling; resource areas: creek, saltmarsh, land subject to coastal storm flowage, and coastal bank. This was held for Department of Environmental Protection (DEP) number and Massachusetts Natural Heritage determination. There had been questions about the existing garage; it was a permitted part of the original plan. Foundation will be piles and meet flood zone standards. The driveway currently exists and will not change; the site is on Town sewer and water.

Steven Cohen, Cohen & Cohen Law PC – They broke up the massing to mitigate the impact on wetland scenic views and put much of the new massing toward the front moving it away from the wetlands. The proposed building is conceptual that has no Historic District Commission (HDC) approval. The current structure is slab on grade.

Public **Cormac Collier**, Executive Director Nantucket Land Council – They have serious reservations about the project, about pulling down the 1600 square foot (SF) house and replacing it with a larger house. He feels some aspects of the existing property are not in compliance with the original Order of Conditions. The scenic view is a serious consideration; this board should also look at the affect on scenic views from the abutting Town property.

Discussion (4:07) **Golding** – This design is more elegant and does take the scenic view into consideration but the mass is considerably larger than the existing.

Erisman – This plan has more windows and doors; there would be an impact on the wetland from interior night lighting. Feels the impact of construction needs to be considered; this is right at the wetland.

Steinauer – Asked if the existing building needs to be raised to comply with the flood zone.
Santos – Only if someone does renovations totaling more than 50% of the fair-market value.
Champoux – Would like to see the proposed ridge line superimposed over the existing.
Cohen – Noted that the property is very valuable but the house not so much; the reality is that a new owner would want a house larger than the existing. Feels that the elimination of structure within the wetland buffer is a net benefit.
Erisman – The eco system services to the public and to the harbor provided by the two interfaces are such that they need to outweigh the cost to the potential homeowner.
Golding – Noted that value of the existing structure is not in ConCom purview. Feels that based on the impact of this larger structure, the NOI should be denied. In this location he would prefer a single-story structure of the same size as the existing.
Cohen – The commission could put controls on construction.
Erisman – It is the responsibility of the applicant to present construction protocols.
Champoux – The site of this house is a non-starter. The question is does this plan represents enough resource benefit.
Steinauer – He goes for the recovery of the resource area; this is not the first house in The Creeks area.
Cohen – They have to wait for Massachusetts Natural Heritage so he’s willing to come back with construction protocols and he will work with the architect to shave the height down more.
Champoux – We would like to see a detailed construction protocol.
Erisman – Feels the board should discourage construction in the wetlands; we wouldn’t normally allow any construction in this area.
Steinauer – We need to look at the net benefit to the land against the cost of the visual impact.
Santos – He will look into not having to raise the structure so much out of the flood zone.
Cohen – Noted they are definitely reducing the size of the main mass. Asked for a 2-week continuance. If a positive order is issued, the plan referenced would be this plan.
 Continued to November 16, 2016 by unanimous consent.

Staff
 Motion
 Vote

N/A

6. Thirty-Six Pocomo Road N.T – 36 Pocomo Road (14-79) NAN-126

Sitting
 Recused
 Documentation
 Representative

Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Joe Topham
 None
 Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
Brian Madden, LEC Environmental – Reviewed the formal restoration planting plan; propose removal of love grass within the restoration foot print and reseed with native blue stem and fescue.

Public

Cormac Collier, Executive Director Nantucket Land Council – This can be thought of as a wetland replication project; as part of the Order of Conditions, the board could request a performance bond to ensure it is done appropriately. Asked if the existing vegetation will be stripped; if so, they should ensure not too much top soil is being removed.

Discussion (4:48)

Steinauer – Asked if they’d be willing to continue submitting reports on the planting effort past three years. Other than that, the plan looks good.
Madden – Doesn’t think his client is averse to continued monitoring.
Golding – He believes this does differ from a normal NOI because it’s in response to an enforcement action.
Champoux – In his opinion, the revegetation plan looks good. Asked about removal of the love grass.
Madden – The love grass will be roto-tilled and raked out. The woody debris is stacked.
Bennett – Asked what would determine the success rate.
Erisman – Asked if the area was filled with trees when it was mowed.
Madden – It appears there were some saplings and mature trees; that’s inferred from aerials.
Champoux – Suggested that roto-tilling love grass isn’t the best idea; mowing and scraping it out would do better at getting the roots.

Staff

A way to ensure follow-up reporting post construction is to require an extension request tied to the initial enforcement action. Reminded the board that they can order some work to commence under the enforcement order. They have done performance bonds on other permits.
 The success rate relates to the survivorship of the revegetation and percentage of stabilized soil. When he looked at the 2014 aerial, there were trees of size in that area.
 Removal of the love grass and beginning of planting trees and shrubs can be conditioned through the enforcement action the memorialized in the Order of Conditions.
 Have everything needed to close.

Motion

Motion to order the removal of the love grass and begin planting. (made by: Steinauer) (seconded by: Champoux)

Vote

Carried unanimously

Motion

Motion to Close. (made by: LaFleur) (seconded by: Steinauer)

Vote

Carried unanimously

7. *Burke – 37 Gardener Road (43-85) SE48-____ (Cont 11/16/2016)

B. Requests for Determination of Applicability

8. Irene Parent – 139 Polpis Road (44-7.2)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Bob Emack** – An isolated wetland borders Polpis Road and there is an isolated vegetated wetland off site approved in 2010. The work is to brush cut a path.
 Public None
 Discussion (5:09) **Erisman** – Asked if Mr. Emack had filed with Massachusetts Natural Heritage.
 Staff Bruce Perry, Laurentide Environmental, LLC, confirmed the wetland boundaries. There is a small sliver about 2-feet wide within ConCom jurisdiction. Filing with Massachusetts Natural Heritage is under the NOI; it's not normally required here. Recommend issue with Positive 2A confirming boundaries and Negative 3 for work within the buffer.
 Motion **Motion to Approve as recommended.** (made by: Steinauer) (seconded by: LaFleur)
 Vote Carried unanimously

III. PUBLIC MEETING

A. Certificates of Compliance

1. Vento – 87 Eel Point Rd (32-11) SE48-2328

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Staff For installing of coir material. Recommend issue as an invalid order as they have another Order of Conditions that supersedes this.
 Discussion (5:14) None
 Motion **Motion to Issue as an invalid order.** (made by: LaFleur) (seconded by: Steinauer)
 Vote Carried unanimously

2. Reiskin – 34 Codfish Park Road (73.1.3-53) SE48-2697

3. Reiskin – 34 Codfish Park Road (73.1.3-53) SE48-2512

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Staff These both are related to renovation & expansion of construction and installation of a septic system. Both are complete and in compliance
 Discussion (5:15) None
 Motion **Motion to Issue both SE48-2697 and SE48-2512.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

B. Orders of Condition

1. Alan A. Shuch Trustee – 45 Quidnet Road (21-21) SE48-2928

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Staff Conditioned that work is to be done by hand; no materials within the 50-foot setback; the silt fence is to be supplemented by hay bales upland of the silt fence. Condition 20 states work is to be done on the structure if the water level of the pond gets within 10 feet of the structure.
 Discussion (5:17) None
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: Champoux)
 Vote Carried unanimously

2. Thirty-Six Pocomo Road N.T – 36 Pocomo Road (14-79) NAN-126

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Staff Conditions discussed would include: a performance bond or filing for an extension; survivorship of trees and shrubs at 95%; quantifying that there is no loose soil; submission of weekly work logs and weekly onsite inspections even through the winter; silt fence and haybales; and no roto-tilling of love grass.
 Discussion (5:18) **Erisman** – Should have something about removal of invasive species if found.
Bennett – Asked about marking the 25.
Steinauer – Suggested mowing the love grass and spraying with Rodeo® herbicide; that saves the soil. Cited how the Airport did a restoration project that is now beautiful.
Champoux – There isn't enough time now to mow and treat. The excavator should take the least amount of soil possible though there might not be a way to quantify that. Reiterated the need to remove the love grass roots.
 Motion None at this time.
 Vote Carried

C. Monitoring Reports

1. Nantucket Barn, LLC – 3 North Avenue(42.4.4-17) SE48-2710

2. Nantucket Conservation Foundation – Dike Road/Polpis Harbor (20-25) SE48-2156

G. Other Business (5:27)

1. Approval of Minutes 10/19/2016: Approved by unanimous consent.
2. Enforcement Actions
 - a. Holly Farm, Rachel Freeman, Nantucket Islands Land Bank (NILB) – Update on work that has begun and what has been accomplished. It looks good; the goal is not to let it look landscaped.
Carlson – NILB had an issue with an abutter cutting parking on NILB property and asked him how to make it stop. If the board thinks it is appropriate, he will issue an enforcement action against cutting and allow NILB to install a barrier of some type or order the abutter to restore the area. Asked if there is opposition from the board that if a large land entity, such as NILB, has a similar encroachment issue for the staff to issue out the enforcement action immediately. Consensus has no concerns with that.
Motion to Ratify the Enforcement Action. (made by: Golding) (seconded by: Steinauer) Carried unanimously
 - b. updates
3. Reports:
 - a. CPC, Golding
4. Commissioners Comment
 - a. Golding – NPR had a vignette on wood-chip fire reactors in Iowa dealing with agricultural runoff; these are trenches filled with bacteria treated wood chips catch nitrogen, which converts into binitrate oxide. This might be a good way to protect the harbor. He will send Mr. Carlson a couple of links. Champoux – They do that on the Cape Cod.
 - b. Steinauer – Got a research report from the Pond Collation to map the phragmites by drone. The imagery is very detailed; the data would be made available to ConCom. Carlson – Suggested having them come in to discuss what they did and found.
 - c. Bennett – Saw a tractor in the revamped wetlands at Millbrook and Hummock Pond wetland cutting along the fence. Carlson –He’ll look into it; Bartlett retained the right to mow in that area.
5. Administrator/Staff Reports
 - a. None

Motion to Adjourn: 5:49 p.m.

Submitted by:
Terry L. Norton