



CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, November 16, 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 4:04 p.m.

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

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

Absent Members: Topham

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 – 1 Brock’s Court (42.3.4-84) SE48-2834 **(Cont. 11/30/2016)**
2. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 **(Cont. 11/30/2016)**
3. Reyes – 19 East Creek Road (55-60) SE48-2929

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

Recused None

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

Representative **Paul Santos**, Nantucket Surveyors – Requested a withdrawal.

Public None

Discussion (4:06) None

Staff None

Motion **Motion to Accept the withdrawal.** (made by: LaFleur) (seconded by: Golding)

Vote Carried unanimously

4. *Burke – 37 Gardener Road (43-85) SE48-2930 **(Cont. 11/30/2016)**

5. *Haulover, LLC – 165 Wauwinet Road (7-1.1) SE48-2932 **(Cont. 11/30/2016)**

6. *62 Walsh Street, LLC – 62 Walsh Street (29-85) SE48-_____

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

Recused None

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

Representative **Paul Santos**, Nantucket Surveyors – Developed piece of property in land subject to coastal storm flowage; proposing a free-standing a garage on northern side in existing shell drive; rework & expand drive; and spa on existing raised patio. Garage to be on a slab foundation with flood vents. A portion of this property abuts an extension of Dix Street, which will become part of this property through the yard sale program.

Asked for a two-week continuance for DEP file number.

Public None

Discussion (4:06) **Golding** – Asked about a path for public access.

Santos – It’s there but not an easement for public access. Noted there is no other infiltration system other than the roof, which is tied to a drain system; the garage would be tied to that system.

Staff Within the yard sale program, a public access is maintained if there is one; in this case there isn’t.

Motion Continued for two weeks by unanimous consent.

Vote N/A

	7. *Nantucket Yacht Club – 4 South Beach Street (42.4.2-59) SE48-2931
Sitting	Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
Recused	None
Documentation	Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.
Representative	<p>Jeff Blackwell, Blackwell & Assoc. – This project is to replace the existing dormitory structure with a larger building in land subject to coastal storm flowage. There is no proposal to change the grade; roof run off will be collected by gutters and downspouts and funneled into Town stormwater drainage system and discharged into the harbor. A sub-surface drainage system on the lot picks up runoff from the tennis court.</p> <p>Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP</p> <p>Leo Asadoorian, Blackwell & Assoc.</p>
Public	<p>Cormac Collier, Executive Director Nantucket Land Council – The Planning Board requires a certain percentage of the stormwater to be handled on site. Nantucket Land Counsel and Department of Environmental Protection (DEP) are addressing the stormwater problem in the downtown area; one issue is testing of the Children’s Beach outfall and utilizing existing regulations to improve harbor water quality. Our main concern with the health of the harbor is atmospheric deposition of nitrogen, which is the largest contributor. The outfall infiltrates right into the eel grass; granted it’s minute but the impact is cumulative; right now there is some separation of that nitrogen. There is easily enough room on site to do a bio-retention area to process the runoff. He feels this is a very important issue.</p> <p>Paul Santos, Nantucket Surveyors</p>
Discussion (4:12)	<p>Erisman – Asked if the discharge is direct to harbor and the size of the new structure related to the existing.</p> <p>Blackwell – The discharge will be treated. The foundation will be fully enclosed with flood vents. The new structure is easily twice as large as the existing building.</p> <p>Champoux – The amount of build out in coastal storm areas causes the loss of green space. In a commercial building, asked about the foundation for a commercial versus residential structure.</p> <p>Reade – The design is such as to allow for the flow of storm water.</p> <p>Santos – There are different standards for the building code; the White Heron has no living space in the basement; the Brass Lantern was grandfathered; this is new housing. Housing triggers the basement component.</p> <p>Erisman – There will be a lot more stormwater going into the harbor that previously went through the ground. Since the runoff is discharging into the harbor, that impact should be reviewed.</p> <p>Golding – Would like to see the performance calculations for the flood vent openings; doesn’t see how the vents could absorb all the water from a storm surge.</p> <p>Blackwell –The proportions are one square inch per one square foot (SF) of foot print. Explained that on the elevation certificate, they must prove that the vents meet that requirement. Each vent handles 200 square inches of water.</p> <p>Golding – He would like to see how much nitrogen might run off from the roof goes into the harbor in the course of a year.</p> <p>Further discussion about the amount of nitrogen in the roof run-off and its impact on the harbor.</p> <p>Erisman – There are plenty of ways to infiltrate on site and she doesn’t see any of that here; feels discharging directly into the harbor is a bad idea.</p> <p>Steinauer – Questions what type of plantings would go in the bio-retention area; fresh water is coming off the roof and salt water with a flood so the plants need to be able to survive both.</p> <p>Collier – There are plenty of fresh-water plants that can survive saltwater flooding. Suggested a below ground tank. This is a large amount of run-off tying into the Town system.</p> <p>Asadoorian – Did submit a stormwater management program with the NOI. Asked if the main concern was the rainwater quality ending up in the harbor.</p> <p>Erisman – Total suspended solids is going to deal with turbidity and sedimentation in the harbor; it’s not going to stop nitrogen from asphalt, roof shingles, and the atmosphere.</p> <p>Collier – One final point is the information from the Town’s management plan; the applicant wasn’t successful getting that information and it is important for this board to review it.</p> <p>Information requested: a planting plan; how much nitrogen we’re looking at; how the land is currently managed in regards to fertilizer use.</p>
Staff	<p>Reade – Asked for a two-week continuance.</p> <p>Our performance standards don’t distinguish between commercial and residential; we can condition this to meet our performance standards if necessary; the Building Code address them differently.</p> <p>Reminded that the resource area is land subject to coastal storm flowage; this board is to review how this structure impacts that resource area.</p> <p>One real difficulty in this area is groundwater is within 18” to two feet of the surface and there is little vertical space for infiltration; bio-retention would require a mound which impacts the flow of flood water.</p>
Motion	Continued for two weeks by unanimous consent.
Vote	N/A

B. Requests for Determination of Applicability

1. Finch – 5 Polliwog Pond Road (55-423.3)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental I reports and correspondence.
 Representative **Arthur D. Gasbarro**, Nantucket Engineering & Survey – This is for work within the 50- to 100- foot buffers of bordering vegetated wetlands; the existing septic will be abandoned to tie into Town sewer.
 Public None
 Discussion (4:53) None
 Staff Did a site inspection and work on wetland line; there is question on hydric soil and impact on the project. This project is very beneficial. Recommend issuing as a Negative 3 for work in the buffer.
 Motion **Motion to Issue as recommended.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

2. Godec – 40 Squam Road (13-27)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Jeff Blackwell**, Blackwell & Associates – This has a new owner since the previous RDA. The owner would like to clear brush 38-feet from approved wetland boundaries. The work is approved under a Massachusetts Endangered Species Act (MESA) permit.
 Public None
 Discussion (4:57) **Steinauer** – Asked what would happen once the brush is cut, will it become lawn.
Blackwell – No lawn is proposed under this request.
Erisman – Asked about big trees.
Blackwell – There are no nice trees.
 Staff They asked for boundary calculation; those are accurate. This can be issued as a Negative 3 but might add a condition for no grubbing and no lawn and natural vegetation be allowed to grow.
 Motion **Motion to Issue as recommended.** (made by: Golding) (seconded by: Steinauer)
 Vote Carried unanimously

III. PUBLIC MEETING

A. Certificates of Compliance

1. Goose Cove, LLC – 7 South Cambridge Street (59.4-132) SE48-2680

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
 Staff Upgrade of existing septic to I/A system and installing water service. It has a Board of Health sign off and the as-built is in compliance. Recommend this be issued.
 Discussion (5:03) None
 Motion **Motion to Issue.** (made by: Golding) (seconded by: Champoux)
 Vote Carried unanimously

2. 23 Commercial Wharf JA, LLC – 23 Commercial Wharf (42.2.4-5) SE48-2604

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
 Staff Originally permitted in 2013; at this point it has expired with no work done. This is to close it out.
 Discussion (5:03) None
 Motion **Motion to Invalidate SE48-2604.** (made by: Champoux) (seconded by: LaFleur)
 Vote Carried unanimously

3. Sunset Realty Trust – 201 Eel Point Road (38-32) SE48-2823

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
 Staff For installation of a pool, wall, spa, structure, removal of pool and walkway, install of an elevated walkway, and landscaping. The project is complete and in compliance. On-going Condition 19 relates to discharge of the pool.
 Discussion (5:04) None
 Motion **Motion to Issue.** (made by: LaFleur) (seconded by: Champoux)
 Vote Carried unanimously

Reiskin – 34 Codfish Park Road (73.1.3-53) SE48-2512 (**Reissue**)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham
 Staff This was an office error; we forgot to note on Certificate of Compliance that it included an amended order of conditions.
 Discussion (5:06) None
 Motion **Motion to Re-Issue.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

B. Orders of Condition

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

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding
Staff Restoration of 26,000 SF in response to an enforcement order. Finding 22 notes it is in response to the Enforcement Order. Condition 19: excavated material to be chipped and disposed of. Condition 20: report of seeded areas and conditions of plants at beginning of each growing season. Condition 21: 95% survivor ship. Condition 22: 80% cover to be maintained at all time. Condition 23: no cultivars. Condition 24: file estimate of all work to include monitoring reports and commission to hold escrow account to ensure completion of the work. Condition 25: initial planting and seeding to be completed May 1, 2017. Condition 26: appear before the commission after June 1 to discuss the condition of the work. Condition 27: invasive species can be removed. Condition 28: to apply for a partial certificate of compliance upon completion of initial seeding and planting. Condition 29: if plantings don't meet survivorship standards, the commission may request a new filing or an extension. Condition 30: haybales to be used with silt fence. Condition 31: a monthly inspection with staff . Condition 32: permanent markers used to denote the no disturb area.

Discussion (5:06) Love grass is covered under removal of plants.
Golding – Asked if May 1 might be too tight and May 31 better.
Champoux – Wants to hold it at May 1.

Erisman – Asked if the removal of love grass is covered.
Motion to Issue. (made by: Golding) (seconded by: Champoux)

Vote Carried unanimously

C. Extension Requests

- 1. 9 E Street, LLC – 9 E Street (60.2.1-6) SE48-2611

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

Staff This was approved in 2013; asked for 3 one-year extensions.

Discussion (5:16) None

Motion to Approve the 3 one-year extensions. (made by: Champoux) (seconded by: Steinauer)

Vote Carried unanimously

D. Other Business

- 1. Approval of Minutes: 11/02/2016 – Approved by unanimous consent.
- 2. Enforcement Actions
 - a. Map and Parcel 45-1 adjacent to 175 Polpis Road – This has significant unauthorized brush cutting without knowledge or authorization from the Nantucket Islands Land Bank (NILB). This was brought to our attention by NILB; they have requested the enforcement order. Recommends issuing the order to NILB and to the owner of 175 Polpis Road as well. Rachel Freeman, NILB – NILB hopes for something that describes the restoration requirements so they can discuss it with homeowner and ask them to do the restoration work. It is a wetland violation and ConCom has the power to dictate the work to be done. Asking also that the property line be surveyed at the same time. There had been substantial trees that are no longer there as the house is now fully visible. Golding – Would feel better approaching the property owners first and getting them to admit what they did. There is the question of what would happen if they deny doing the work. Freeman – If the Enforcement Order is put on us, we can address the homeowner.
Motion to Issue the enforcement action on Map and Parcel 45-1 with the delineation of property line, resource boundaries, and a restoration plan to be submitted to ConCom. (made by: Champoux) (seconded by: Steinauer) Carried unanimously
- 3. Reports:
 - a. CPC, Golding – The have \$7.3M in requests with \$4.3M in funds.
 - b. NP&EDC, Bennett – Nothing
 - c. Mosquito Control Committee, Erisman – Nothing
- 4. Commissioners Comment
 - a. Steinauer – Things like blatant destruction of habitat should result in fining. Staff – We need to adopt sets of fines for specific violation categories. Would also like to publish enforcement actions in the paper with names and addresses.
 - b. Golding – Noted that Marine Home Center sells only Round-up® but not Rodeo®. He talked to them about the difference between the two. Staff – Suggested the commission have periodic workshops to discuss herbicides the commission might want to adopt and address other topics non-jurisdictional items.
- 5. Administrator/Staff Reports
 - a. None

Motion to Adjourn: 5:45 p.m.

Submitted by:
Terry L. Norton