



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, January 18, 2017

4 Fairgrounds Road, Training Room – 4:00 p.m.

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, Champoux, Golding, Topham
Absent Members: LaFleur
Late Arrivals: Golding, 4:55 p.m.
Earlier Departure: None

Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Public Comment: Carlson – If anyone is interested in the genetically-modified mouse presentation, it is being recorded. If anyone has questions, email Roberto Santamaria, Director of the Health Department.

II. PUBLIC HEARING

A. Notice of Intent

1. Zarella – 125 Wauwinet Road (12-8) SE48-2856 (**Cont 03/01/2017**)
2. Zarella – 129 Wauwinet Road (12-4) SE48-2857 (**Cont 03/01/2017**)
3. Nantucket Islands Land Bank – 17 Commercial Wharf & Unnumbered Lot New Whale Street (42.2.4-7 & 8) SE48-2885 (**Cont 02/15/2017**)
4. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 (**Cont 02/01/2017**)
5. Fargo Way Realty Trust & Wauwinet Realty Trust – 10 Fargo Way (14-15 & 61) SE48-2939 (**Cont 02/01/2017**)
6. *A& B Realty Trust – 53 & 55 Baxter Road (49-17,18) SE48-2941

Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Art Gasbarro**, Nantucket Engineering & Survey – For landscape activity within 100 feet of a stable coastal bank. There is an open Order of Conditions. Reviewed the proposed landscape work and relocate the Bluff Walk back to the 25-foot buffer. Two small sections of split-rail fencing and vegetation will delineate the path. Do not believe there are negative impacts on ConCom interests.
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Public None
 Discussion (4:05) **Erisman** – Asked about the easement allowed for the Bluff Walk; it’s further into the property.
Reade – The terms aren’t clear; the location is shown on the land-court plan. The easement doesn’t change; if there is further erosion, the path will fall back even further. In some cases the easement isn’t shown at all.
 Staff The Bluff Walk easement shifts with the top of the bank; it’s very old and unclear.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously
 7. *Denise S. Nesi – 20 Walsh Street (42.4.1-20) SE48-2942
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Art Gasbarro**, Nantucket Engineering & Survey – For work within land subject to coastal storm flowage to remove the existing and construct a new single-family dwelling compliant with flood zone requirements and to relocate the pervious driveway. The existing grade will be maintained – no fill proposed.
 Public None
 Discussion (4:14) **Champoux** – The new structure looks much larger than the existing; asked if it is flood-zone compliant, will it allow better water flow than the existing.
Gasbarro – He believes that the flow of flood waters will be improved. Stated the HVAC units will be on platforms above the flood zone.
Topham – The plans show the final grade at 5 feet.

Gasbarro – Explained that is due to the datum used. There will be a benchmark unaffected by construction.

Bennett – Asked about roof runoff.

Gasbarro – It can be conditioned to have gutters and downspouts feeding into a shallow infiltration chamber.

Champoux – Suggested the water being allowed to run off the roof and spread might be better than feeding it into an infiltration chamber.

Staff The structure is conditioned based on the performance standard for the resource area, which in this case pertains to the land's ability to hold flood waters.
Have everything needed to close.

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

Vote Carried unanimously

8. *Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48-_____

Sitting Bennett, Erisman, Steinauer, Champoux, Topham

Recused None

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative **Paul Santos**, Nantucket Surveyors – The work is to remove existing structures within 25-feet of the top of a coastal bank. They will be coming in with a waiver-free NOI for construction of new structures outside the 50-foot buffer. The old septic is outside the 100-foot buffer. The silt fence will be along the developed area of the site. There is a current Order of Conditions for sand-drift fencing. Asked for a two-week continuance.

Public None

Discussion (4:24) **Steinauer** – Asked what sort of plants would be used to revegetate the disturbed area.
Santos – That will be under the next NOI with a full landscaping plan; this is just to get the buildings out of there.
Champoux – He is concerned about the chance of intruding into the 25-foot, no-disturb zone.
Santos – There is already encroachment into the 25-foot, no-disturb zone. The foundation hole will be filled.
Erisman – The faster the stabilization plan is in place, the better. Asked what the erosion rate is.
Santos – It is very low. The bank suffers more from rain events and losing from the top; there is little change in the toe.

Staff They have two weeks to provide a moving protocol.

Motion Continued for two weeks by unanimously consent.

Vote N/A

9. *Leonard Barbieri – 48 West Miacomet Road (86-4) SE48-2945

Sitting Bennett, Erisman, Steinauer, Golding

Recused Champoux, Topham

Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.

Representative **Paul Santos**, Nantucket Surveyors – For work on a developed lot; the resource areas are a coastal dune along the south side, 100-year flood zone, coastal beach, and Atlantic Ocean. The existing septic is compliant with Title IX and outside the 100-foot buffer for the coastal dune. The dune has accreted over the last 20 years. The entire structure is outside the 50-foot buffer to the dune. The proposed work is relocation of the structure on a new foundation, a shed, relocate a pervious driveway, and associated landscaping. Waivers are required. The area will be revegetated with native grass and bayberry and beach plum. The path to the beach will be relocated to the eastern side of the lot. They do not have a response from Natural Heritage and Endangered Species Program (NHESP); there is an increase in the area of disturbance. Asked for a two-week continuance.
Steven Cohen, Cohen & Cohen Law P.C.

Public None

Discussion (4:56) **Erisman** – Asked if the current dwelling has a basement.
Santos – It does not have a full foundation; we are asking to move it onto a full foundation.
Golding – Since it is being moved, suggested the structure be moved out of the 50-foot buffer.
Steinauer – Asked about the NHESP restriction.
Santos – Said he thinks the restriction if for habitat.

Staff He believes the restriction would be for shorebirds.

Motion Continued for two weeks by unanimously consent.

Vote N/A

10. *34 Shawkemo LLC – 34 Shawkemo Road (27-3.1) SE48-2944
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Don Bracken**, Bracken Engineering, Inc. – This is for the upgrade to a new I/A septic system with the tanks within the 100-foot buffer; the new system will increase the number of bedrooms to 8 bedrooms. There is an existing Order of Conditions for work on the house, a new garage, and a pool; those resource areas are still valid. Transfer of property requires an upgrade to the septic system.
 Public None
 Discussion (4:38) None
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

11. *Goodrich Nantucket II, LLC – 36 Shawkemo Road (27-3) SE48-2943
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Don Bracken**, Bracken Engineering, Inc. – Transfer of property requires an upgrade of the septic to an I/A system; the new system will increase the number of bedrooms to 12 bedrooms. The wetland delineation done by Brian Madden, LEC Environmental; there is also a coastal bank.
 Public None
 Discussion (4:42) None
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

III. PUBLIC MEETING

A. Minor Modifications

1. Zachary Gut – 13 Columbus Avenue (59.3-110) SE48-2862
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Recused None
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Art Gasbarro**, Nantucket Engineering & Survey – There is an open Order of Conditions; this is for construction of an addition on the shed.
 Public None
 Discussion (4:44) None
 Staff Recommend this be approved as a minor modification.
 Motion **Motion to Approve as a Minor Modification.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

B. Certificates of Compliance

1. Cressman – 8 Wauwinet Road (20-11.1) SE48-2696
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Staff This was for construction of a single-family home; work is in compliance. Recommend this be issued.
 Discussion (4:46) None
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

C. Orders of Condition

1. A& B Realty Trust – 53 & 55 Baxter Road (49-17,18) SE48-2941
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Staff Will add Condition 21: no irrigation within the 25-foot buffer.
 Discussion (4:47) **Erisman** – Given the proximity to the Bluff, she’s concerned about irrigation.
Steinauer – Suggested a condition on no irrigation within the 25-foot buffer.
 Motion **Motion to Issue as amended.** (made by: Champoux) (seconded by: Topham)
 Vote Carried unanimously
 2. Denise S. Nesi – 20 Walsh Street (42.4.1-20) SE48-2942
 Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 Staff Reconstruction within the flood zone; they have a temporary dewatering permit.
 Discussion (4:49) **Erisman** – Confirmed that if they decide on downspouts with infiltration, they have to come back to modify the permit.
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

- 3. 34 Shawkemo LLC – 34 Shawkemo Road (27-3.1) SE48-2944
 - Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 - Staff This has the standard *proviso* for test results. The Board of Health is using a new septic maintenance tracking program.
 - Discussion (4:51) None
 - Motion **Motion to Issue.** (made by: Champoux) (seconded by: Topham)
 - Vote Carried unanimously
- 4. Goodrich Nantucket II, LLC – 36 Shawkemo Road (27-3) SE48-2943
 - Sitting Bennett, Erisman, Steinauer, Champoux, Topham
 - Staff None
 - Discussion (4:53) None
 - Motion **Motion to Issue.** (made by: Champoux) (seconded by: Steinauer)
 - Vote Carried unanimously

D. Monitoring Reports (4:53)

- 1. Diamond – 10 Jefferson Avenue (30-55 & 56) SE48-2829
- 2. 48 SPR, LLC – 48 Shimmo Pond Road (43-79) SE48-2789

E. Other Business (5:10)

- 1. Approval of Minutes 1/4/2017: Adopted by unanimous consent.
- 2. Enforcement Actions:
 - a. Chapter 91 Enforcement Catch Basins – Update: the NIR property manager has assured that all the existing catch basins in the A&P parking lot will be cleaned; Mr. Carlson is to be present for installation of new pillows. A truck has to be brought over to do the work. Steve Bender – He’s been after this since 1995. In regards to the Boat Basin 2001 Chapter 91 License, there is a myth the boats are responsible for their effluent; read Condition Nr. 7, Standard Waterways License Condition. Stated the Boat Basin must adhere to all State laws, which means paying a \$200 fine for every boat that dumps into the harbor. He has recently heard that the Black Water isn’t being properly disposed of.
 - b. Baxter Road unpermitted shed – It was verified to be in the setback; the owner is deciding what to do with it: move to a compliant location or remove it completely.
- 3. Reports:
 - a. CPC, Golding
 - b. NP&EDC, Bennett
 - c. Mosquito Control Committee, Erisman
 - d. Biodiversity Committee, Steinauer – This is new and being developed to deal with aquatic species; it’s not an official public committee.
- 4. Commissioners Comment:
 - a. Discussion about what the commission can do about the Boat Basin violations of Chapter 91 and Town Code Chapter 137 and Board of Health Regulation 32:00. Commissioner would like an NIR representative to come before the committee to answer questions. It will be on the next agenda to take formal action.
 - b. Erisman – 246 Polpis is “messy”; there was a tennis court, now it’s the garage. Asked Staff to check on it.
 - c. Erisman – Pond Coalition Report, they were registering CO² to measure invertebrates; wants to know if they are measuring methane. The information might be useful in evaluation of other large-scale projects.
 - d. Erisman – Asked if dates have been chosen to discuss water management. Staff – He will send out an email with possible dates.
 - e. Steinauer – Asked about the ‘Sconset Bluff Preservation Foundation peer review. Emily Molden, Nantucket Land Council asked when monitoring reports will be available to the public.
- 5. Administrator/Staff Reports:
 - a. None

Motion to Adjourn: 5:32 p.m.

Submitted by:
Terry L. Norton