



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, February 1, 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 4:01 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: 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. 02/15/2017**
2. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 (**Cont. 02/15/2017**)
3. Fargo Way Realty Trust & Wauwinet Realty Trust – 10 Fargo Way (14-15 & 61) SE48-2939

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

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

Representative **Art Gasbarro**, Nantucket Engineering & Survey – This is for a coastal stabilization structure. Currently there is a zig-zag sand-drift fence and nourishment with a Certificate of Compliance; the fence not adequately stabilizing the bank to support revegetation nor is sand accumulating. We will remove all the structural elements of the sand-drift fence and replace it with an array of coconut fiber logs with mesh and soil held with duck-bill anchors; it would be covered with sand accompanied by an extensive planting plan regimen. Annually we will provide nourishment along the toe of the bank. Lee Swisher has provided an extensive report on the site which is included in the file. Construction access would be along the face of the bank from Pocomo Point. Reviewed the construction protocol. The owner is willing to accept the same conditions and post-storm monitoring as is on the abutting coastal engineering structure, which is identical in construction. They took topographic measurements of the beach and compared that to available data.

Seth Wilkinson, Wilkinson Ecological Design – Reviewed in detail the planting plan. They modeled the structure in 3D to create a gentle slope conducive to holding the plants.

Public **Emily Molden**, Nantucket Land Council – Asked about the termination points. Would like some of the conditions that were crafted for the neighboring project to be included with this project.

Discussion (4:02) **Golding** – Any significant fetch will not bring sand into the system if it’s above the coir logs. How would sand enter the system during a storm event.

Gasbarro – The sand in front of the coir logs would be available and would be replaced after a storm event if necessary.

Erisman – High tide laps at the base of the bank; that is why it isn’t holding sand. She is concerned there would in fact be no sand available.

Gasbarro – The sand cover for the coir rolls must be maintained.

Champoux – Asked what happens if the coir logs are uncovered for a certain amount of time.

Gasbarro – Reviewed the proposed monitoring reports that would ensure the rolls stay covered and revegetation is successful.

Discussion about the owner’s commitment to maintaining the project over the long term.

Erisman – On the west side of the property, it looks like the lawn goes right up to the edge; asked what the top-of-bank protocol will be to prevent sheeting over the bank. Should probably cease mowing there.

Gasbarro – The lay of the land is contoured lower than the top of the bank so stormwater runoff moves east to west along the lawn into the shrub area.

Bennett – Asked about the returns.

Gasbarro – On the east it would meet the neighbor’s existing installation. On the west end, the rolls would taper at 45% and stop about five feet short of the property line.

Staff Have everything needed to close.

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

Vote Carried unanimously

4. Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48-2946
- Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative **Paul Santos**, Nantucket Surveyors – This is adjacent to a coastal bank associated with Nantucket Harbor; the proposal is for demolition or removal of a structure within ConCom jurisdiction and a garage outside ConCom jurisdiction. For the move, they would only need about 10 feet off the back of the house. He doesn't have a written protocol but is willing to submit one as a condition.
- Public None
Discussion (4:42) **Erisman** – Asked what will happen to the vacated space.
Santos – The area will be graded and temporarily stabilized. We will be back with an NOI for a replacement structure. We need a NOI to get the demolition permit. All work will occur outside the 50-foot buffer.
Discussion about whether the board should have the protocol before closing or add it as a condition.
- Staff There an option with the protocol is it could be conditioned with the limit of work to be no greater than 10 feet off the structure.
Have everything needed to close.
- Motion **Motion to Close.** (made by: Champoux) (seconded by: Topham)
Vote Carried unanimously
5. Leonard Barbieri – 48 West Miacomet Road (86-4) SE48-2945
- Sitting Bennett, Erisman, Steinauer, Golding
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative **Paul Santos**, Nantucket Surveyors – This is for redevelopment of the site; last month they didn't have the Natural Heritage and Endangered Species Program (NHESP) notification. He received the NHESP letter just before this meeting; it states no adverse impact on endangered species and no take with conditions; read the conditions. The proposal is to relocate the structure outside the 50-foot no-build zone. He's Asked for waivers for removal of the existing structures and septic tank within the 25-foot and 50-foot buffers. The area currently occupied by the structures will be revegetated with beach grass and no fertilizer. The resource area is a coastal dune.
Steven Cohen, Cohen & Cohen Law P.C.
- Public None
Discussion (4:52) None
Staff Have everything needed to close.
Motion **Motion to Close.** (made by: Steinauer) (seconded by: Erisman)
Vote Carried 4-0//Champoux & Topham recused
6. *141 Main Street, LLC – 141 Main Street (41-172) SE48-2947
- Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative **David M. Haines**, Haines Hydrogeologic Consulting – This is to remove the existing pool and construct a new pool 90 feet from a bordering vegetated wetland. The pool fence is at 51 feet and will need repair. He is asking for a waiver for the possibility the pool bottom might be within two feet of ground water; He is also asking for a temporary dewatering permit. However, he believes there is a clay layer and they won't get a lot of water.
Kevin Dale, Vaughn, Dale, Hunter and Beaudette P.C.
Jessie Dutra, Waterscapes Designs
- Public None
Discussion (4:59) **Erisman** – She would like to see where the water table is. Expressed concern that putting in the pool could break through the clay layer contaminating the water below it.
Haines – The way the hydrology works in this area, he believes the clay layer is very deep in this area. The waiver request is precautionary. Explained the pool would be drained upland outside the 100-foot buffer.
Dutra – The existing pool is eight feet deep which is below the proposed depth of this pool. The proposed pool would be about 18 inches above the elevation of the basement walkout.
Champoux – If you dig a 6-foot deep pit and find water, how do we know whether or not it is ground water; also there is a concern about punching through the clay layer and contaminating the ground water. Asked what happens if they find water in a test pit.
Steinauer – If they find water, they would have to apply for a waiver; which they have done. If they dig a test pit, they could find it's all clay.
Steinauer – Suggested digging a 6-foot pit to find out what the pool will be sitting on.
Dutra – Explained how the pool would be constructed if the bottom is in the water.
Dale – Asked for a continuance.
- Staff None
Motion Continued to February 15 by unanimous consent
Vote N/A

7. *John B. Brescher Trustee – 3 Pond Road (56-151.1) NAN-127

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Mark Rits**, Site Design Engineering – This is for an addition to the house on the upland side outside the 50-foot buffer to a bordering vegetated wetland. Delineated wetland boundaries are still valid.
 Public None
 Discussion (5:21) **Erisman** – Asked how old the structures are.
Rits – The structures on the lot has been in place since the 1980s.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

B. Request for Determination of Applicability.

1. Thornewill – 48 Dukas Road (56-246)

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Ryan Maxwell**, Bracken Engineering, Inc – This is for a sewer connection. The resource area is a bordering vegetated wetland across the street. Will abandon the current system; only the tank will remain.
 Public None
 Discussion (5:25) None
 Staff The wetland boundary was approved for the sewer line installation and is still valid. Recommend issuing as a Negative 3.
 Motion **Motion to Issue as a Negative 3.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

C. Amended Orders of Conditions

1. Dannheim – 97 Low Beach Road (75-31.2) NAN-119

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative **Ryan Maxwell**, Bracken Engineering, Inc – They are adding a path, adding A/C on a concrete pad, deleting the well, revised the grading and fence to allow the patio to be closer to the wetland. Massachusetts Natural Heritage said this would not alter their determination. The fence is outside the 50-foot buffer.
 Public None
 Discussion (5:27) None
 Staff This option clears less area. Recommend this be closed and issued.
 Motion **Motion to Close and Issue as an amended order of conditions.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried unanimously

III. PUBLIC MEETING

A. Minor Modifications

1. Jelleme – 29 Quaise Road (26-8) SE48-2381

Sitting Bennett, Erisman, Steinauer, Champoux, Golding
 Representative **Art Gasbarro**, Nantucket Engineering & Survey – This is for landscaping associated with a pool. The bluestone patio is outside the 25-foot buffer. The proposed 6-foot board fence behind the shed will be within the 50-foot buffer.
 Staff This is not a request for an amended order of conditions because there is no change in scope. Recommend this qualifies as a minor modification.
 Discussion (5:31) None
 Motion **Motion to Issue as a Minor Modification.** (made by: Champoux) (seconded by: Steinauer)
 Vote Carried 5-0 //Topham recused

B. Certificates of Compliance

1. Thompson – 14 Fargo Way (14-17) SE48-2645

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff According to Mr. Thompson, the sand delivery is scheduled. Staff is waiting for the delivery to see if the project is brought into compliance. If the sand isn't delivered, it will have met the failure criteria. It's never been in compliance. The commission can order the structure be removed today.
 Discussion (5:37) **Erisman** – Suggested their lack of compliance constitutes having met the failure criteria. She asked to be emailed the order of conditions.
Bennett – If they aren't in compliance by February 15, 2017, this board will order the structure removed. Staff is to inform Mr. Thompson that if it is not covered in two weeks, he will face an enforcement order; also, staff is to have a draft enforcement order prepared ordering removal of the structure.
 Motion Continued to February 15, 2015 by unanimous consent.
 Vote N/A

C. Orders of Condition

1. Fargo Way Realty Trust & Wauwinet Realty Trust – 10 Fargo Way (14-15 & 61) SE48-2939

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff He put together a rough draft, which mirrors the Pocomo neighbor’s order of conditions. These are identical as far as design. If they can’t connect to the Pocomo structure, they have to come back for an amended order. Within Condition 28: once vegetation is established, coir logs can’t be replaced. Will add Condition 35: if there is no abutting structure at the east end, the structures is to terminate similar to the west end.

Discussion (5:43) **Steinauer** – Asked if something should be added in regards to the access ramp.
Bennett – Asked about possible runoff.
Arthur D. Gasbarro, Nantucket Engineering & Survey, – He believes runoff will permeate in and won’t be a problem.
Topham – Asked about what would happen if the abutting Pocomo structure is removed.
Gasbarro – Suggested a condition that states if the abutting structure isn’t there, the end will be constructed similarly to the west end.

Motion **Motion to Issue as amended.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried 5-1//Erisman opposed

2. Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48-2946

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff He will add a condition prohibiting excavation within 15 feet of the top of the bank.

Discussion (5:53) **Erisman** – Asked if it should be conditioned that no work would be done within the buffer.
Champoux – Suggested no work should encroach closer than 15 feet of top of bank.
Paul Santos, Nantucket Surveyors – Said to reference excavation because the deck has to be removed.

Motion **Motion to Issue as amended.** (made by: Golding) (seconded by: Steinauer)
 Vote Carried unanimously

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

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff Based on discussion today, he will add Condition 20: requires the work envelop be stated prior to start of work; and Condition 21: details what the restoration work entails.

Discussion (5:56) None

Motion **Motion to Issue as amended.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

4. John B. Brescher Trustee – 3 Pond Road (56-151.1) NAN-127

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff There is nothing needed.

Discussion (5:58) None

Motion **Motion to Issue.** (made by: Steinauer) (seconded by: Champoux)
 Vote Carried unanimously

D. Extension Requests

1. Rabbit Run Realty Trust – 24 Rabbit Run Road (28-8) SE48-2640
2. Rabbit Run Realty Trust – 22, 24, & 26 Rabbit Run Road (43-180, 28-8, & 28-9) SE48-2664

Sitting Bennett, Erisman, Steinauer, Champoux, Golding, Topham
 Staff Both are for residential development. One lot is under a Land Bank conservation restriction so work has not yet started as that is resolved. The sites are in compliance. Recommend extending.

Discussion (5:59) None

Motion **Motion to Approve three one-year extensions for both SE48-2640 and SE48-2664.** (made by: Steinauer) (seconded by: Topham)
 Vote Carried unanimously

E. Other Business (6:01)

1. Approval of Minutes 1/18/2017: Approved by unanimous consent.
2. Enforcement Actions
 - a. Baxter Road – A NOI is being prepared to remove the shed.
3. Nantucket Boat Basin, NIR – Whoever is managing the parking lot has contracted to have the catch basins cleaned. That work is being coordinated with the Department of Public Works. The absorption pillows are ready to replace those in the catch basins. Staff has drafted up a letter to NIR about the reports of grey water discharge into the harbor; the letter asks NIR to come before the board and explain the operation. **Steve Bender** – Congratulated ConCom for moving forward on this. The letter is exactly what he was expecting. **Motion to Issue the letter to the Boat Basin.** (made by: Steinauer) (seconded by: Champoux) Carried unanimously
4. Reports:
 - a. CPC, Golding – Nothing
 - b. NP&EDC, Bennett – Nothing
 - c. Mosquito Control Committee, Erisman – Setting up public education program to prevent excessive spraying.

5. Commissioners Comment

- a. Golding – He heard the ‘Sconset Beach Preservation Foundation (SBPF) approached the NP&EDC about a project over the next few years to get 250,000 cubic feet for a 3,500 linear foot extension of their project. Referred to the Dec. 6, 2016 NP&EDC minutes and their project schedule. He is confident the SBPF will come before the ConCom to extend the coastal erosion structure. Also, he thought the initial condition required within six months that the Town to provide the commission with a plan about moving Baxter Road; we’ve heard nothing from the Town and he would like to send a letter asking them to come before ConCom. **Bennett** – SBPF came to NP&EDC looking for possible off-shore mining; they didn’t have a preliminary plan. There was no approval or discussion about a time frame. **Staff** – The request for a letter requesting the Town to appear before the board will be posted as an agenda item.
 - b. Erisman – Asked if Staff has contacted 246 Polpis Road. **Staff** – He’s in regular contact with them.
 - c. Erisman – Asked Staff to check on clearing at the top of a bluff at 10 Fargo Way. **Staff** – Will take a look.
6. Administrator/Staff Reports
- a. The work on the new bikepath on the railroad bed has started.

Motion to Adjourn: 6:18 p.m.

Submitted by:
Terry L. Norton