



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, March 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 4:03 p.m.

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

Attending Members: Bennett, Erisman, Steinauer, LaFleur, Golding (phone in)

Absent Members: Champoux, 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. Zarella – 125 Wauwinet Road (12-8) SE48-2856 **(Cont 03/15/2017)**
2. Zarella – 129 Wauwinet Road (12-4) SE48-2857 **(Cont 03/15/2017)**
3. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924 **(Cont 03/15/2017)**
4. Alan A. Shuch Trustee – 45 Quidnet Road (21-21) SE48-2949 **(Cont 03/15/2017)**
5. \*Fisher – 5 North Beach Street (42.4.1-92) SE48-2951

Sitting	Bennett, Erisman, Steinauer, LaFleur, Golding
Documentation	Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative	<b>Michael Connolly</b> , for Haines Hydrogeologic Consulting – This is for an addition on an existing dwelling in land subject to coastal storm flowage. Ground water was found at 28 inches; they will dig down to groundwater, lay gravel, and build the foundation. There is no grade change; material will be removed from the site. They are adding parking.
Public	None
Discussion (4:05)	None
Staff	The crawl space will have flood vents. Have everything needed to close.
Motion	<b>Motion to Close.</b> (made by: Steinauer) (seconded by: LeFarge)
Voice Vote	Carried 5-0: Steinauer – Aye; LaFleur – Aye; Erisman – Aye; Golding – Aye; Bennett – Aye
	6. *Holland Jr – 66 West Chester Street (41-371) SE48-2950
Sitting	Bennett, Erisman, Steinauer, LaFleur, Golding
Documentation	Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative	<b>Mark Rits</b> , Site Design Engineering – This is to construct a pool and cabana partially within the 100-foot buffer; for invasive species removal up to the wetland boundary; and repair & improvement of a Department of Public Works (DPW) drain line. The bottom of the pool will be about two feet below high ground water and so are requesting a waiver. They are installing a pool discharge infiltration area outside the 100-foot buffer which will be used for any dewatering if necessary. The cabana is slab on grade construction. The wetland was delineated in 2016 for knotweed removal; this will extend that removal up to the border; they will replant with typical buffer-zone vegetation. The drain line currently runs across the property and discharges into the wetlands; it will be reconstructed and rerouted terminating just before the wetland boundary into a rip-rap gravel apron. <b>Dan Malloy</b> , Site Design Engineering – Explained the work on the DPW drain line. This drains the entire section of West Chester Street and Pilgrim Road and doesn't function well. Explained the how the rip-rap area will be constructed and planted to minimize effect on the wetlands and alleviate street flooding. Sarah Alger, Sarah Alger, P.C.
Public	<b>Emily Molden</b> , Nantucket Land Council – Recommends not attempting to cut the knotweed below ground. Clarified the revegetation area. Asked about pipe maintenance access. Would also like to see a cross section of the rip-rap construction and the sump pump pit. <b>Margo Montgomery</b> – Presented a letter of concerns at the table. he's concerned about building the pool within the 100-foot setback of a wetland; asked how/where it would be drained.
Discussion 4:08)	<b>Bennett</b> – Suggested extending the rip-rap gravel bed.

Discussion about whether or not the position of the drain pipe discharging in proximity to the wetlands can be moved away from the wetlands.

**Steinauer** – Asked how the knotweed would be removed.

**Rits** – They had considered physical removal, sift, and haul off site; however, it was recommended to cut and spray killing everything on site.

**Steinauer** – Supports the cut and spray method.

**Erisman** – Asked what the timeline for the knotweed removal would be.

**Rits** – After cutting and spraying, they would plant a native grass seed mix to give growth. They would monitor for a year or two years to ensure the knotweed doesn't come back.

**Erisman** – She would like to see the pipe backed away from the wetlands.

**Malloy** – If they cut the pipe back, they would have to dig a trench to direct the outflow.

**Erisman** – She knows there is a better design with plants for this. She would like to see a planting plan to help the potential water flow coming through the pipe.

**Malloy** – That requires about 50 feet of plants and they don't have the space to do that; there just isn't the physical space to design it differently. There isn't the separation from groundwater to do an infiltration grill. The proposal for the pipe is still an overall net improvement.

**Rits** – For maintenance access to the pipe, they can keep an area along the pipe somewhat clear of high shrubs.

**Malloy** – The owner will be granting the DPW an easement for maintenance access.

**Golding** – He's concerned about guarantees on the infiltration area and seepage into ConCom areas of jurisdiction. Asked why it isn't being pumped into the Town system. Asked how the pool would be pumped out.

**Malloy** – The drain pipe is part of the Town system. The pool drainage system is like any except it has a specific design volume.

**Bennett** – This could be conditioned with no chemicals used in the pool after a certain time and it can be drained only after that.

**Rits** – They would accept the condition to cease chemical treatment prior to winterization.

**Bennett** – Asked for a cross section of the design for the drain pipe infiltration area.

**Erisman** – She thinks increasing the size of the pipe will have an impact on the wetlands that isn't being recognized; increased chemicals and solids from the road would infiltrate into the wetland. She would like to see a design of the rip-rap area.

Discussion about the drainage pipe and whether or not there are plausible alternatives or additional design treatments.

**Erisman** – Wants to see a cross section of what's going on and why it's not possible to terminate the pipe farther back from the wetland.

**Malloy** – He can make up a cross section but it isn't going to show an alternative design.

Discussion about whether or not the consensus feels a cross-section plan is necessary before making a decision.

**Steinauer** – The answer is to get the DPW in here with a plan for improving the catch basin.

**Malloy** – Noted that since the DPW was informed of the location of the drain, it has been cleaned and is flowing better. He will dig a 4-foot pit and install a sump pump at the first manhole on the property.

**Golding** – Stated he would abstain from a vote to close.

**Malloy** – Requested a continuance to provide a cross section and plan showing the 4-foot sump pit.

Staff

Encouraged putting something on the ground to keep anything from getting into the soil and then the wetlands. Chemical treatment would be ceased three weeks prior to winterization to allow chemicals to evaporate off; the exception is trucking it off site. Summarized a letter of concerns from Dan Bailey submitted on behalf of Jonathan Blackman at 58 West Chester Street; contends the applicant did not submit a detailed alternative analysis so can't be granted a waiver; wants their own engineer to review the application. If there is a concern about the design impact, we need a better explanation of what that impact will be.

Have everything needed to close.

Motion

Continue to March 15, 2017.

Voice Vote

N/A

7. \*Nantucket Community Sailing – 2 Bathing Beach Road (29-2) SE48-\_\_\_\_ (Cont 03/15/2017)

8. \*Monomoy, LLC – 20 Monomoy Road (54-145) SE48-2952 (Cont 03/15/2017)

**B. Amended Orders of Conditions**

1. 3 Beacon Lane Nominee Trust – 3 Beacon Lane (21-26.9) SE48-2892 (Cont 03/15/2017)

**III. PUBLIC MEETING**

**A. Minor Modifications**

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

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding  
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.  
 Representative None  
 Public None  
 Discussion (5:09) None  
 Staff This is the project for installation of fiber logs. To install it they need to remove a portion of the existing beach stairs; when construction is done the stairs will go back in the same place. There is no change in design.  
 Motion **Motion to Approve the minor modification.** (made by: Steinauer) (seconded by: LaFleur)  
 Voice Vote Carried 5-0: Steinauer – Aye; LaFleur – Aye; Bennett – Aye; Erisman – Aye; Golding – Aye

**B. Certificates of Compliance**

1. Fayette Street Partners, LLC – 13 Fayette Street Lot C (42.3.2-28.1) SE48-2792
2. Fayette Street Partners, LLC – 11 Fayette Street Lot D (42.3.2-28.2) SE48-2799
3. Union Street Partners, LLC – 42B Union Street Lot A (42.3.2-28) SE48-2725
4. Union Street Partners II, LLC – 42A Union Street Lot B (42.3.2-28.3) SE48-2793

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding  
 Staff This is the Funeral Home reconstruction process. Only resource was land subject to coastal storm flowage. As built plans are submitted; there are no on-going conditions. Recommend issuance of all four.  
 Discussion (5:11) None  
 Motion **Motion to Issue for SE48-2792, SE48-2799, SE48-2725, and SE48-2793.** (made by: Steinauer) (seconded by: LaFleur)  
 Voice Vote Carried 5-0: Steinauer – Aye; LaFleur – Aye; Bennett – Aye; Erisman – Aye; Golding – Aye

5. Quinlisk – 79 Squam Road (13-7) SE48-1752

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding  
 Staff This is a full-site redevelopment with an NOI and three amendments. Recommend issue.  
 Discussion (5:13) None  
 Motion **Motion to Issue.** (made by: LaFleur) (seconded by: Steinauer)  
 Voice Vote Carried 5-0: Steinauer – Aye; LaFleur – Aye; Bennett – Aye; Erisman – Aye; Golding – Aye

6. Zschau – 77 Washington Street (42.2.3-42) SE48-2539

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding  
 Staff This is a project in the flood zone; everything is in compliance and grades haven't changed. Recommend issue.  
 Discussion (5:15) None  
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: LaFleur)  
 Voice Vote Carried 5-0: Golding – Aye; Steinauer – Aye; LaFleur – Aye; Erisman – Aye; Bennett – Aye

**C. Orders of Condition**

1. Fisher – 5 North Beach Street (42.4.1-92) SE48-2951

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding  
 Staff This is for a driveway and addition in the flood zone. There are not a lot of conditions.  
 Discussion (5:17) None  
 Motion **Motion to Issue as drafted.** (made by: Steinauer) (seconded by: Erisman)  
 Voice Vote Carried 4-0: Steinauer – Aye; LaFleur – Aye; Bennett – Aye; Erisman – Aye; Golding – abstain

**D. Other Business**

1. Approval of Minutes 2/15/2017: Approved by unanimous consent.
2. Enforcement Actions:
  - a. Staff is going start listing these differently on the agenda and attaching outstanding enforcements.
  - b. Thompson – 14 Fargo Way (14-17) SE48-2645

Update (5:20) Letter sent to Mr. Thompson, who has gotten in touch with staff about scheduling his appearance before the board on March 15, 2017.

- c. Winthrop Management LP – 2 New Whale Street

Update (5:21) Chapter 91 issue for the Stop & Shop catch basin; NIR has engaged a company to clean out the pumps and replace the pillows. They will provide reports from here on

- d. Nantucket Islands Land Bank – 168 Hummock Pond Road

Update (5:22) This is from the report from the last meeting about the community farm on Land Bank property. He will make a site visit with representatives from Nantucket Island Land Bank and Sustainable Nantucket next week. There might be other issues that relate to the wetlands.

e. Spears Trust – 81 Squam Road:

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding

Staff (5:24) During the Certificate of Compliance site inspection for 79 Squam Road, he noticed Spears Trust had done substantial clearing of brush from the bank to the 25-foot buffer zone. Asked for authorization to issue an enforcement order for the restoration of the buffer zone.

Motion **Motion to Issue the enforcement order.** (made by: Steinauer) (seconded by: LaFleur)

Voice Vote Carried 5-0: Steinauer – Aye; LaFleur – Aye; Bennett – Aye; Erisman – Aye; Golding – Aye

f. Haydock Trust – 64 West Chester Street (41-372)

Sitting Bennett, Erisman, Steinauer, LaFleur, Golding

Staff (5:27) During the viewing for 66 West Chester Street, he noticed Haydock Trust had clear cut all of their knotweed without a permit and constructed a 6-foot board, a portion of which is within the buffer. Asked for authorization to issue an enforcement order for restoration of the buffer zone.

Motion **Motion to Issue the enforcement order.** (made by: Steinauer) (seconded by: LaFleur)

Voice Vote Carried 5-0: Steinauer – Aye; LaFleur – Aye; Erisman – Aye; Golding – Aye; Bennett – Aye

g. Increased enforcement fee.

Staff (5:30) There has been discussion of assessing an addition “after-the-fact” fee for NOIs submitted in response to enforcement orders. He will do research on an appropriate fee. Also the third-party review fee might be higher because they usually take longer.

3. Reports:

a. CPC, Golding – None

b. NP&EDC, Bennett – None

c. Mosquito Control Committee, Erisman – None

4. Commissioners Comment

a. Steinauer – Sent an email about changes being made to the definition of a wetland at the Federal level and if that affects our operation. Staff – Noted that seven states have banded together, if there are changes they will legally challenge those definitions. Massachusetts is one of those states and has indicated no intention of weakening its clean water act.

5. Administrator/Staff Reports

a. ‘Sconset Beach Preservation Foundation Project Review – The third party reviewer is from Woods Hole; commissioners should send any questions to be forwarded to the reviewer to staff. The public component of the presentation is scheduled for the end of March; that can be rescheduled to accommodate the commissioners.

b. Fee Increase – There has been discussion of assessing an additional “after-the-fact” fee for NOIs submitted in response to enforcement orders. He will do research on an appropriate fee. Also the third-party review fee might be increased because they usually take longer for such projects.

Motion to Adjourn: 5:40 p.m.

Submitted by:

Terry L. Norton