



CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, May 14, 2021 – 5:00 p.m.

*This meeting was held via remote participation using ZOOM and YouTube,
Pursuant to Governor Baker’s March 12, 2020 Order Regarding Open Meeting Law*

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Joe Topham,
Seth Engelbourg, Maureen Phillips, and Mark Beale

Called to order at 5:00 p.m. by Ms. Erisman

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

Attending Members: Erisman, Golding, LaFleur, Topham, Engelbourg, Beale

Absent Members: Phillips

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Town of Nantucket (DPW) – Town Wide (Various) SE48-3366

Sitting Erisman, Golding, Topham, Engelbourg, Beale
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative Rob McNeil, Director Department of Public Works (DPW)
Gene Crouch, VHB
Public None
Discussion (5:06) **Crouch** – We received the Massachusetts Natural Heritage determination of no take.
No comments.
Staff Have everything needed to close.
Motion **Motion to Close.** (made by: Engelbourg) (seconded)
Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Topham-aye; LaFleur recused

2. Town of Nantucket DPW – Surfside Beach (87-60 & 131) SE48-3420

Sitting Erisman, Golding, Topham, Engelbourg, Beale
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative Steven Reichert, Fuss & O’Neil
Rob McNeil, Director DPW
Public None
Discussion (5:09) **Reichert** – Provided a waiver request letter and revised the plans relocating the drainage improvements outside the 100’ buffer; did not revise the location or design for the building deck. Added ropes and posts access restrictions along the path to the beach. Included in the packet is a letter of support from the Commission on Disability.
Engelbourg – He doesn’t think the deck as proposed meets our performance standards; the applicant hasn’t met the burden of proof explaining why it is needed. Thinks the same post and rope could be used at the edge of the parking lot to limit access. Our purview is protecting the wetland resource, not public enjoyment of that area.
Topham – Agrees with Mr. Engelbourg.
Beale – Also agrees. Wants to hear the reasons for the waiver request.
Reichert – The waiver request is because the proposed deck is within the 50’ buffer.
Erisman – She’s still uncomfortable with the deck. It should be redesigned to be outside the 50’ buffer.
McNeil – Though the Town is moving forward with a concession master plan, it is unlikely the building footprint will change. The facility and limits on the use will keep the building in its current location and size. This project speaks to use by humans, but we’re trying address issues in conflict and to work within not only the Wetland Protection Act (WPA) but also local concerns. The deck improves handicapped (H/C) accessibility to the concession, showers, and public toilets. We consulted with Mr. Carlson regarding what would be appropriate. Referenced the Commission on Disability letter supporting the deck. Folks can enjoy the scene of the beach from the deck. We have grant-funded projects and program that allow beach access to people with ambulatory issues such as the boardwalk to a visitor’s platform installed at Jetties Beach. We did

not explore a boardwalk out to the beach because the wave action and fluctuating tide precludes a similar program here; the deck is the compromise.

Erisman – We understand the need for Americans with Disabilities Act (ADA) compliance; she feels there is another compromise that would be out of the resource area. We want to see an alternative design analysis. Feels there’s plenty of room to get decking outside the 50’ buffer.

McNeil – Keeping the structure outside the 50’ buffer is something that would be considered in the reimagining of the facility in the future.

Erisman – From a resource area perspective, it would be better to do it once rather than disturb the resource area now and again in 5 years. The deck is a structure and we don’t allow new structures within the 50’ buffer. It’s difficult to justify allowing this.

Beale – He’s in favor of the storm water management plan. Asked if there is a way to move that portion along and have the deck come back at another time.

Erisman – We could issue on certain aspects of the project and not issue on others. The DPW would have to be amenable.

McNeil – Asked the specific burdens to have the waiver approved.

Engelbourg – You have to justify a long-term net benefit to the resource area and explain how something else won’t work. You would have to justify how the viewshed can’t be provided from outside the 50’ buffer.

McNeil – Suggested Commissioners visit the site with the plan in hand. The reason for the deck was to extend the cantilevered deck to the point it would dissuade anyone from walking over the dunes to the beach. There is a deep-water well under the existing deck and erosion jeopardizes that well. The deck would block further erosion of the coastal dune.

Topham – He sees the deck as more of a viewing stand; it’s oversized and could hold tables and chairs. It could be minimized; they could come back with helical piers. If this were a new building, we would have it pushed back from the bluff.

Erisman – The deck mass looks to equal the building.

Golding – He’s glad about Mr. Carlson’s recommendation. He shares the concerns of his commissioners; he’d like to see the deck less than 12’ wide or a brick patio.

McNeil – He feels the net benefit and input concerning placement will go a long way. He’ll go back to the architect with the fresh comments for a revision of the plan. Along the deck we would have a bench on the east, showers on the west, and a movement corridor between the two that allows people to lean on the railing. Asked about the possibility of a 9’ deck, which would bring the sono-tubes closer to the building.

Erisman – If the size of the deck decreases, it would be more palatable but there is still the need to meet the burden of proof regarding the waiver.

Engelbourg – Looking at the plan, the deck is ell-shaped on the east and south elevations; asked if the deck could extend solely to the east to minimize intrusion into the 50’ buffer.

McNeil – The east side currently has a grass picnic-table area adjacent to parking. Without a wrap-around H/C-accessible deck, people with disabilities would have to go through the parking lot to reach the concessions and the H/C ramp to the bathrooms and shop.

Erisman – All the H/C parking spots were placed far from the concession entrance; suggested they be moved to in front of the north elevation.

McNeil – That has to do with traffic circulation through the parking lot, which includes a bus stop. ADA requirements state they cannot cross vehicular lanes and be closest to the facilities access point. The current location is the safest for ADA accessibility.

Engelbourg – It deserves a look to see if current facilities can be reconfigured to a different location eliminating the need to have a wrap-around deck. Asked them to go through all possible alternatives before the next hearing.

McNeil – He’d love to have a site visit with the Commissioners to look at the resource area and how the proposal will benefit long-term protection.

Erisman – You can request a site visit but feels the Commission would still request a redesign.

McNeil – Requested a site visit. Asked for a 2-week continuance.

Staff A conversation he had with Mr. McNeil in the field discussed an option of a more pervious-style installation that isn’t defined as a structure; he steered away from that because of run off.

Motion He can schedule a site visit the Monday before the next meeting.
Continued to June 10th.

Roll-call Vote N/A

3. Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337 (Cont. 06/24/2021)

4. *Sweet Meadow Sylvia Lane, LLC – 74 West Chester Street (41-478) SE48-3379
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (5:56) **Santos** – Reviewed the project and previous work on the property. This was continued due to concerns about eliminating a row of substantial Leland Cyprus; that request has been removed. Regarding the issue with the Rose of Sharon, we will remove those and not replace them with privet.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
5. MLR3, LLC – 45 Shawkemo Road right of way (27-18) SE48-3411
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Don Bracken, Bracken Engineering
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Public None
 Discussion (6:00) **Madden** – This was continued regarding questions directed toward staff.
Engelbourg – Appreciates the effort put into answering our questions. He agrees this road is a semi-public way in which the applicant doesn’t have control; therefore, the waiver requested under 103f3b would apply
 Staff The Commission was looking for differentiation between a public and private way; Director of Planning Andrew Vorce explained this right of way is semi-public, which allows non-residential vehicles to pass in both directions.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Topham) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
6. Nantucket Islands Bank – Smooth Hummocks South End of Westerwyck Way (82-30) SE48-3426
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:08) **Gasbarro** – We received a letter of no take from Massachusetts Natural Heritage.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Topham) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
7. *Waterfront Pocomo, LLC – 17 Lauretta Lane (14-10.2) SE48-3431
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:10) **Gasbarro** – This is for a modification to a residential property changing red brick patios to granite and to convert a shrubby area to lawn outside the 50’ buffer to a vegetated wetland and policy coastal bank.
Golding – Asked if there would be any drainage issues with the granite.
Gasbarro – No, the pervious area remains the same.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: LaFleur) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
8. *Lower Pocomo Nominee Trust – 88 Pocomo Road (15-42) SE48-3432 **(Cont. 07/08/2021)**
 9. *Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48- **(Cont. 07/08/2021)**
 10. Randolph G. Sharp, Jr. Trust – 49A Meadowview Drive (56-113.1 portion) SE48-3414
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Don Bracken, Bracken Engineering
 Public None
 Discussion (6:13) **Madden** – This is for construction of a single-family dwelling, patio, driveway, and pool. Soil logs were added to the plan. Relative to high-groundwater, standing water is variable but observed closer to the on-site pond. We redesigned the bottom of the pool and foundation to be above high groundwater, but within the 2’ separation requirement. We are proposing subsurface infiltration to collect runoff from the roof and patios. Looking to revegetate within the 25’ buffer and do some invasive species management; that requires a waiver.
Engelbourg – On the plan, asked if the soil samples are represented. Both could be designed to be above the 2’ separation.
Madden – We took 2 tests adjacent to the pool location; both redock levels meet the 2’ separation at the pool.

Engelbourg – It’s worth calling out a Finding about the variable groundwater height.

Carlson – Emily Molden, Nantucket Land Council, called out that the crawl space is proposed to be 6.5' while the crawl space at 49 is proposed to be 4', yet a waiver to groundwater is requested for both. Asked if it possible for both to be 4'. Also agrees with Mr. Engelbourg that the waiver as requested cannot necessarily be justified for the pool.

Bracken – That’s the bottom of the footings and the depth of the slab on the footings; that is just over 1 foot; the crawl space is just over 5’ but above the groundwater. That extra foot makes a huge difference in use of the crawl space.

Carlson – Ms. Molden agrees that the waiver can’t be justified for the pool.

Erismán – Agrees that the 2’ separation can be granted for the structure, but the pool isn’t a necessary structure.

Engelbourg – If there were a failure to the pool, the treated water would go directly into groundwater.

Bracken – If you aren’t going to grant the waiver for the pool, asked that something specific be included for the revised depth of the pool.

Madden – Based upon the soil samples next to the proposed pool, no waiver is required for the pool.

Staff Have everything needed to close.

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

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erismán, Golding, LaFleur, and Topham-aye

11. *Randolph G. Sharp, Jr. Trust – 49 Meadowview Drive (56-390) SE48-3428

Sitting Erismán, Golding, LaFleur, Topham, Engelbourg, Beale

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

Representative Brian Madden, LEC Environmental
Don Bracken, Bracken Engineering

Public None

Discussion (6:26) **Madden** – This is new construction of a house, patio, pool, guesthouse, and driveway all outside the 50’ buffer. No work will be within the 25’ buffer with less than 50% alteration between the 25’ and 50’ buffers. Will have subsurface infiltration systems for runoff. Did soil testing and set the bottom of the foundation footings, and bottom of the pool above high water but within the 2’ separation.

Engelbourg – Suggested revising the design of the pool to get it out of the 2’ separation from groundwater.

Golding – Agrees with Mr. Engelbourg.

Erismán – Also agrees.

Madden – We can take a closer look at doing that; it might involve grading fill.

Engelbourg – Suggested looking into an above-ground pool.

Carlson – Emily Molden, Nantucket Land Council, asked what the difference will be from infiltration system to high groundwater for both 49 and 49A. Asked if a waiver is required for both. Asked if part of the waiver justification has a diagram or additional information on their design been provided to the file.

Madden – The infiltration would be shallow and above high groundwater. Asked to continue to June 10th.

Staff Infiltration chambers are not considered structures so don’t require waivers.

Motion Continued to June 10th.

Roll-call Vote N/A

12. *Drake Real Estate, LLC – 2 Horn Beam Road (21-118.5) SE48-3429

Sitting Erismán, Golding, LaFleur, Topham, Engelbourg, Beale

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

Representative Brian Madden, LEC Environmental
Don Bracken, Bracken Engineering

Public None

Discussion (6:32) **Madden** – This is for a pool, patio, shed, and outdoor shower. The pool is outside the 50’ buffer and meets the 2’ separation from high groundwater. There are no waivers required for the project. We are waiting for Massachusetts Natural Heritage on this; it’s within priority habitat. Asked for a 2-week continuance.

Staff The application checks “no” regarding Massachusetts Natural Heritage jurisdiction.

There is a portion of patio within the 50’ buffer; the patio material should be clarified.

Motion Continued to June 10th.

Roll-call Vote N/A

13. *87 Eel Point Road Realty Trust – 87 Eel Point Road (32-11) SE48-3430

Sitting Erismán, Golding, LaFleur, Topham, Beale

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

Representative Brian Madden, LEC Environmental
Don Bracken, Bracken Engineering

Public None

Discussion (6:35) **Madden** – This is for renovation of a single-family dwelling within the 50’ buffer to a coastal bank. A Certificate of Compliance has been issued for a coastal erosion structure. Identified the limit of existing beach grass and structure is designed to accommodate the 50’ buffer for the grass. Massachusetts Natural Heritage is requiring a botanical survey on this; asked if Che commission would close contingent upon the results of their review process.

Erisman – Asked if ConCom could issue the Certificate of Compliance with a contingency.
Carlson – Emily Molden, Nantucket Land Council, suggested the commission ask the applicant to revegetate the existing structure site with beach grass; that would work in conjunction with the coastal erosion work.
Madden – The applicant expects that to be lawn area; will accept conditions regarding fertilization and irrigation; all lawn is outside the 25’ buffer and complies with the regulations.
Golding – Ms. Molden’s suggestion is worthy; suggested a compromise of bringing it out an additional 10’.
Madden – Currently, the area is all beach grass.
Topham – He’s in agreement with Ms. Erisman and Molden.
Madden – asked for a 2-week continuance.

Staff ConCom could issue the Certificate of Compliance as Mr. Madden requested
 Motion Continued to June 10th.

Roll-call Vote N/A

B. Amended Orders of Condition

1. Wallack Ack, LLC – 45 Hulbert Avenue (29-16) SE48-3331

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Public None
 Discussion (6:42) **Blackwell** – This is to bury a propane tank about 30’ from the coastal dune under the driveway; it would be anchored to a concrete slab. Any temporary dewatering would be pumped to a discharge chamber north of the bulkhead.
Topham – Asked if staff or the Fire Department reviewed this due to new requirements for underground tanks.
Blackwell – He will take those comments back to the contractor; setback requirements have been met. He will inform the contractor that a fence is required to keep people from driving over the tanks.
Engelbourg – Asked if the fence within the 50’ buffer would cause issues with the regulations.
Carlson – Emily Molden, Nantucket Land Council, asked how close this location is to the resource area.
Blackwell – Given the subsurface drainage and parking, the variable is a couple of feet east and west; the tank would be more than 25’ from the coastal dune. He will stake the location for the contractor prior to installation. He’s hearing the concerns of the commission and assures the applicant will comply. Asked why an 18’ length of picket fence is not acceptable but an 18’ length of split rail is; he’d have a hard time explaining that to the owner.
Erisman – A split rail for demarcation is non-structural under our regulations. They could apply for an amendment with a waiver for a picket fence.
Blackwell – He’d close if a split rail fence is required by the Fire Department.
Golding – Asked if we had granted a waiver for the electric company on Candle Street.
 Staff It would have to be split-rail fencing.
 The electric company had additional security issues.
 Recommend close and issue.

Motion **Motion to Close and Issue the amended order.** (made by: Beale) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

2. Snowdon – 11 Massachusetts Avenue (60-80) SE48-3148

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Public None
 Discussion (6:54) **Blackwell** – This is for an elevated 3’-wide boardwalk supported by helical anchors to allow revegetation of grass within the marsh. Haven’t heard from Massachusetts Natural Heritage so will have to continue.
Golding – Appreciates it’s kept low enough to not require a railing.

Staff None

Motion Continued to June 10th.

Roll-call Vote N/A

III. PUBLIC MEETING

C. Minor Modification

1. ACK86QR, LLC – 86 Quidnet Road (21-102, 103, & 69) Ser8-3412

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None
 Discussion (6:57) **Madden** – This involves addition of window wells and area way outside the 50’ buffer.
 Staff Recommend issuing the Minor Modification.
 Motion **Motion to Issue the Minor Modification.** (made by: Golding) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

D. Certificates of Compliance

1. Moore – 14 Moors End Lane (43-216) SE48-851

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff This was for septic installation; this is so old they've since converted to Town Sewer.
 Discussion (6:58) None

Motion **Motion to Issue.** (made by: Topham) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

2. Lynne F. Berlyn – 2 Francis Street (55.1.-4) SE48-3381

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff This was for installation of a driveway; work is completed and in compliance.
 Discussion (6:59) None

Motion **Motion to Issue.** (made by: Beale) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

3. Dunphy & Colella – 32 Tennessee Avenue (60.1.2-41) SE48-2438

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff Suggested issuing with on-going Conditions 21-26 and 33, which have to do with invasive species management.

Discussion (7:00) **Art Gasbarro**, Nantucket Engineering & Survey – This was for an elevated walkway.

Motion **Motion to Issue with on-going Conditions 21-26 & Condition 33.** (made by: Topham) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

4. Bailey – 85 Sankaty Road (49-91) SE48-3080

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff The original work was permitted before the lot was subdivided; looking for a partial certificate to release Lot 4 to clear it off the title.

Discussion (7:03) None

Motion **Motion to Issue a partial Certificate of Appropriateness.** (made by: Engelbourg) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

5. 55 Grove Lane, LLC – 55 Grove Lane (41-419) SE48-3155

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff Concur it is in compliance but recommend on-going Condition 20 banning permanent dewatering.
 Discussion (7:00) **Mark Rits**, Site Design Engineering – This was for redevelopment of a lot. Work is in substantial compliance.

Motion **Motion to Issue with on-going Condition 20.** (made by: LaFleur) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

6. Montgomery – 33 North Liberty Street (41-157) SE48-711

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Staff Final work matches the original permit; recommend issuing.

Discussion (7:07) None

Motion **Motion to Issue.** (made by: Topham) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

E. Orders of Condition

1. Town of Nantucket (DPW) – Town Wide (Various) SE48-3366

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Documentation Draft Order of Conditions
 Staff We don't have to issue this tonight. Recommend attaching the Land Bank protocols, as approved by Massachusetts Natural Heritage, to the order so there is no question. Reviewed Conditions 19, 20, 21, 22, and 23. Condition 23 states that regarding anything not specifically covered Staff be contacted prior to work. The Massachusetts Natural Heritage letter has to be attached to the Order. He will put under Additional Findings that the copy of Massachusetts Natural Heritage determination is attached to the Order.

Discussion (7:08) **Golding** – He'd like to note the Massachusetts Natural Heritage letter required their conditions be included and the representation that they signed off on this is disingenuous; their conditions need to be included.

Motion **Motion to Approve as amended.** (made by: Topham) (seconded)

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Topham-aye; LaFleur recused

2. Sweet Meadow Sylvia Lane, LLC – 74 West Chester St (41-478) SE48-3379

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale

Documentation Draft Order of Conditions

Staff There are no particular conditions.

Discussion (7:17) **Engelbourg** – Noted that they aren't planting anything and that non-native plants are being removed.

Motion **Motion to Approve as amended.** (made by: LaFleur) (seconded)

Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

3. MLR3, LLC – 45 Shawkemo Road right of way (27-18) SE48-3411
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 - Documentation Draft Order of Conditions
 - Staff Has an additional Finding that the road way is historic and was laid out in 1931; he'll add that it is semi-public. There's a difference between having the ability to improve the roadway and having the right to control it; he can't restrict others from access. If you deny the waiver, they can't do the project; if we don't grant the waiver, suggested we grant a positive order since the State doesn't have the same requirements as us. Some of the proposed work is outside the 25' buffer.
 - Discussion (7:19) **Beale** – It says the area not within the control of the applicant; asked if he'll be doing work in the road way.
Golding – Suggested adding “sole” to “control of the applicant.”
Engelbourg – It is sole or direct control of the applicant. The waiver language could be cleaned up in the regulatory updates.
Beale – Asked the implications of denying the waiver. He's troubled by the whole thing. He feels the proposed improvements are unnecessary, so the waiver isn't necessary.
 - Motion **Motion to Approve as amended.** (made by: LaFleur) (seconded)
 - Roll-call Vote Carried 4-2//, Engelbourg, Erisman, LaFleur, and Topham-aye; Beale and Golding-nay
4. Nantucket Islands Bank – Smooth Hummocks South End of Westerwyck Way (82-30) SE48-3426
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 - Documentation Draft Order of Conditions
 - Staff This was for installation of aluminum beach stairs; no conditions. Staff will be notified when the stairs are installed ore removed.
 - Discussion (7:29) **Engelbourg** – Asked if Staff will be notified when the seasonal stairs are installed and removed.
 - Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
5. Waterfront Pocomo, LLC – 17 Lauretta Lane (14-10.2) SE48-3431
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 - Documentation Draft Order of Conditions
 - Staff This was for brick to granite patios; no conditions for it.
 - Discussion (7:31) None
 - Motion **Motion to Approve as drafted.** (made by: LaFleur) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
6. Randolph G. Sharp, Jr. Trust – 49A Meadowview Drive (56-113.1 portion) SE48-3414
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 - Documentation Draft Order of Conditions
 - Staff Read how he included Mr. Engelbourg's suggestion.
 - Discussion (7:32) **Engelbourg** – We need to call out that a waiver is required for the 2' separation from groundwater for the crawl space footing but not the pool.
 - Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

F. Other Business

1. Approval of Minutes 5/6/2021 & 5/17/2021:
 5/17 discussion of Mr. Engelbourg referencng 9/31 deadline, he said December 31st.
 Motion **Motion to Approve 5/6 as drafted and 5/17 as amended.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye
2. Reports:
 - a. CPC, Topham
3. Enforcement updates SBPF
 Discussion (7:40) **Carlson** – The first date when everyone is available for a follow up on SBPF is June 21st at 5 p.m. That might be an in-person meeting.
Erisman – Asked if we could still do it remotely if that makes it easier.
Carlson – There are a lot of questions; many have communicated some level of ZOOM because of higher participation due to not having to travel. We don't know what the final legislation will look like.
4. Commissioners Comment
 - a. Erisman – It would be great to get an update on some of the outstanding enforcement: Holly wood Farm, Sankaty Road, and Sesachacha Pond.
5. Administrator/Staff Reports
 - a. With Mr. Topham leaving, ConCom will have to designate the CPC position. Mr. Beale volunteered.
 - b. Annual Town Meeting is Saturday June 5th at the High School.

G. Adjournment

- Motion **Motion to Adjourn at 7:50 p.m.** (made by: Golding) (seconded)
- Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye

Submitted by:
 Terry L. Norton