



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, January 5, 2023 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), Seth Engelbourg, Mark Beale, Linda Williams, Mike Misurelli, and Joe Plandowski

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

Staff in attendance: Will Dell’Erba, Conservation Agent; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, and Plandowski

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

1. **Turcotte** – Requested that on one of the next agendas the stormwater issue be added for discussion. Asked about Chapter 91 letter issued in 2022.

Erisman – didn’t get a response to Chapter 91; Coastal Resiliency Advisory Committee (CRAC) issued a letter as well.

Golding – He’s made a not to ask Vincent when they meet; he’ll ask if it was signed and sent.

Erisman – She brought up the stormwater issue with Mr. Carlson; it’s a major problem for the Island.

2. **Beale** – Asked if there has been any response to our request for special counsel.

Erisman – Not yet. One condition for extending the removal order was our getting authorized special counsel.

II. PUBLIC HEARING

A. Notice of Intent

1. Easton Street, LLC – 55 Easton Street (42.4.1-86) SE48-3590 (**Cont. 01/19**)

2. 36B Lily Street, LLC – 36B Lily Street (42.4.3-94) SE48-3597 (Madden)

Sitting Erisman, Golding, Engelbourg, Beale, Misurelli, Plandowski

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

Representative Brian Madden, LEC Environmental

Public Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP, for the Loweys

Discussion (5:06) **Madden** – Submitted a letter addressing the questions about the main dwelling foundation; will go with an elevated pier foundation. We believe the project is designed in compliance with the regulations and will be a net benefit.

Plandowski – This is a definite improvement; he visited the site and saw a lot of water.

Reade – Asked for confirmation that waivers are no longer requested.

Madden – We only require a waiver for work within the 25’ buffer for the turnout area; we’re changing it to a reinforced grass area.

Staff recomm. Have everything needed to close.

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

Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski-aye; Williams recused

3. Nantucket Whales End II, LLC – 43 & 45 Squam Road (13-23; 24) SE48-3607 (Madden)

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:11) **Madden** – This was continued for the Massachusetts Natural Heritage determination letter, which we received; they ruled no adverse impact.

Beale – His “abstaining”.

Erisman – Confirmed it’s okay to condition the barn being used for livestock. It’s too close to the 50’ buffer for a true barn.

Staff recomm. Have everything needed to close.

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

Vote Carried 6-0//Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye; Beale abstain

4. ACK Hang Ten, LLC – 21 Meader Street (42.2.3-44) SE48-3611 (**Cont. 01/19**)

5. Huckleberry Friend Trust – 13 & 17 East Tristram Avenue (31-37 & 4) SE48-3610 (Gasbarro)
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (5:14) **Gasbarro** – Reviewed the revised plan filed in response to commission comments. The applicant has agreed that the north set of stairs would no longer be used. Reduced the bench to 4’ long; it’s cantilevered off the timber walkway.
Beale – He wants those northern stairs removed; they shouldn’t be there at all.
Gasbarro – They are removed on a seasonal basis; the use would be abandoned. Would welcome a condition clarifying that.
 Staff recomm. Have everything needed to close
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye

- 6. *Drexler – 95 Washington Street (55.1.4-46; 47; 6.1) SE48-____ (Cont. 01/19)
- 7. *14 North Road, LLC – 14 North Road (43-83) SE48-3612 (Cont. 01/19)
- 8. *Nantucket Boathouse, LLC – 2 & 6 Easton Street (42.1-4.8; 4.9) SE48-3613 (Cont. 01/19)
- 9. *Madaket Land Trust – 3 Baltimore Street (60-19) SE48-3614 (Cont. 01/19)
- 10. *78 Wauwinet Road, LLC – 78 Wauwinet Road (14-18) SE48-____ (Cont. 2/2)
- 11. *Gifford/Carlin – 28 Sheep Pond Road (63-34) SE48-____ (Cont. 01/19)

B. Amended Order of Conditions

- 1. None

III. PUBLIC MEETING

C. Requests for Determination of Applicability

- 1. None

D. Minor Modifications

- 1. None

E. Certificates of Compliance

- 1. Town of Nantucket – F Street (60.1.2-2) SE48-3152 (Smith)

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
 Representative None
 Staff recomm. This is the Town pier; it is in compliance. Recommend issuing the certificate with no on-going conditions.
 Discussion (5:19) None
 Motion **Motion to Issue.** (made by: Williams) (seconded)
 Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye

F. Orders of Condition

- 1. 36B Lily Street, LLC – 36B Lily Street (42.4.3-94) SE48-3597

Sitting Erisman, Golding, Engelbourg, Beale, Misurelli, Plandowski
 Documentation Draft Order of Conditions
 Staff Reviewed Condition 18, 129, 20, 21, & 22. Condition 19 needs to be updated. Added Condition 23 regarding lighting.
 Discussion (5:21) **Beale** – Under Condition 20, asked if it can be changed to no fertilizer use from 50’ to 100’ because this is a very wet zone, even when there’s been no rain.
Engelbourg – Extending that buffer in this case is within our capacity and is ecologically reasonable. Asked about possible lighting conditions.
Erisman – We don’t want the parking lit up or lights toward the grass path and away from the bordering vegetated wetlands.
 Motion **Motion to Issue as amended.** (made by: Misurelli) (seconded)
 Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski-aye; Williams recused

- 2. Nantucket Whales End II, LLC – 43 & 45 Squam Road (13-23; 24) SE48-3607

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
 Documentation Draft Order of Conditions
 Staff Condition 20 states no livestock; asked if wording is sufficient.
 Discussion (5:26) **Engelbourg** – suggested adding “or be used for agricultural purposes.”
Erisman – Suggested the lighting condition be included as well. Added Condition 21 regarding lighting.
Williams – Suggested lighting be added for all new construction.
 Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
 Vote Carried 6-0//Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye; Beale abstain

- 3. Huckleberry Friend Trust – 13 & 17 East Tristram Avenue (31-37 & 4) SE48-3610
- Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
- Documentation Draft Order of Conditions
- Staff Amended Condition 20 allowing 1 set of beach stairs to the east and removing the northern set.
- Discussion (5:29) No additional comments or concerns.
- Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
- Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye

G. Extension Request

- 1. None

H. Other Business

- 1. Approval of Minutes 12/22/2022:

- Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
- Vote Carried 5-0//Beale, Erisman, Misurelli, Plandowski, and Williams-aye; Engelbourg and Golding abstain

- 2. Discussion of Regulatory Update

Erisman – She talked to staff about ensuring this progresses forward. A 3rd draft went out in December; we need to make a motion to send for Town Counsel for review if the commission thinks it’s ready; after counsel review the draft would be scheduled for a public hearing. Thinks it could be tied to a stormwater management document.

Engelbourg – He doesn’t feel ready to send this to Town Counsel because we never discussed the potential change to increase the buffer zones. We need a meeting to hammer that down.

Erisman – It would be good to talk about how this connects to the stormwater regulations. Asked an email be sent to commissioners asking for potential dates for a special meeting.

- Motion No action at this time.
- Vote N/A

- 3. Enforcement updates

- a. 2 Gully Road clear cut

- Sitting Erisman, Golding, Engelbourg, Beale, Williams, Misurelli, Plandowski
- Documentation None
- Speakers None
- Discussion **Dell’Erba** – The notice went out to the owner and prior owner; they will appear before the commission on the 19th.
- Williams** – She got a call from someone in ‘Sconset about how that happened. On Thanksgiving, they were walking and didn’t see a work truck but there were two people with chainsaws.
- Erisman** – We will discuss details for a restoration plan when they come before us.

- Motion No action at this time.
- Vote N/A

- b. **Erisman** – We need enforcement for the house on cribbing at the end of Hummock Pond; she’s concerned because there has been no action and it would be a nightmare to remove it from the beach.

Dell’Erba – Staff was out there last week and agrees something needs to happen. We will get on it Friday morning.

- 4. Reports:

- a. NP&EDC, Engelbourg
- b. Harbor Plan Advisory Committee, Williams

- 5. Commissioners Comment

- a. Engelbourg – Staff should track down the location of the 6 parcels that ConCom “owns” then, in a meeting, discuss our continued role as conservator.
- b. Engelbourg – Asked all commissioners to review the purposes of recusal versus abstention and ensure they are using the correct one.
Williams – Recusal is when there is a conflict of interest. An abstention can be for any reason and counts as a negative vote.
- c. Erisman – Mr. Carlson sent an email to reschedule a joint meeting with the Select Board. We have not received a removal-order plan.
- d. Erisman – SBPF is scheduled for Jan 12th.

- 6. Administrator/Staff Reports

- a. None

I. Adjournment

- Motion **Motion to Adjourn at 5:49 pm.** (made by: Engelbourg) (seconded)
- Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, Misurelli, Plandowski, and Williams-aye

Submitted by:
Terry L. Norton