



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, March 6, 2019

4 Fairgrounds Road, Training Room – 5:00 p.m.

Commissioners: Andrew Bennett(Chair), Ashley Erisman(Vice Chair), Ernie Steinauer, David LaFleur, Ben Champoux, Ian Golding, Joe Topham

Called to order at 5:06 p.m.

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

Attending Members: Bennett, Erisman, Steinauer, LaFleur

Absent Members: Champoux, Golding, Topham

Late Arrivals: None

Earlier Departure: None

Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. BSS Hummock Pond, LLC – 289 Hummock Pond (83-4) SE48-3163 **(Cont. 03/20/2019)**
2. *S/P Norwell, LLC – 104 & 111 Washington Street (55.1.4-38 & 71) SE48-3158

Sitting Bennett, Erisman, Steinauer, LaFleur

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

Representative Katie Barnicle, Wetland Scientist AECOM

Public None

Discussion (5:08) **Barnicle** – This is beautification and redo of existing parking and traffic flow; the properties are currently owned by the Town. The proposal is for crushed stone, curbing, and landscaping. She included a storm water report in the application. Resource areas are an isolated vegetated wetland, coastal dune, coastal flood plain, and storm-drain defenders. There is a stormwater retention basin, which isn't jurisdictional. Catch basins will have hoods to catch trash. The crushed stone will the increase run-off rate.

Erisman – Some of the proposed plantings are cultivars; should be all native species. The landscape plan in the packet is different than that presented at the table.

Bennett – The plan shows slight berms; if those are vegetated, they will provide greater buffers for the wetland.

Steinauer – The crushed stone will help keep the run-off cleaner.

Staff Have everything needed to close

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

Vote Carried unanimously

3. Harborfront Realty Trust – Village Way (14-2) SE48-3166

Sitting Bennett, Erisman, Steinauer, LaFleur

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (5:17) **Santos** – This is for removal and reconstruction of beach stairs. We did not have a letter from Natural Endangered Species Protection; they have ruled no adverse effect. There was concern about the top landing; it is only 10 square feet with a bench; that counters the 10 square-foot landing being removed.

Staff Have everything needed to close.

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

Vote Carried unanimously

4. Jemison – 195C Hummock Pond Road (65-23.2) SE48-3165 **(Cont. 03/20/2019)**
5. *21 Crooked Lane, LLC – 1 West Chester Street Ext (41-480) SE48-3169 **(Cont. 03/20/2019)**
6. Abrams Point Realty Trust – 30 Rabbit Run Road (28-6) SE48-3168 **(Cont. 03/20/2019)**

- 7. *New England Development – 15 South Beach Street (42.4.2-57.1) SE48-3173
 - Sitting Bennett, Erisman, Steinauer, LaFleur
 - Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 - Representative Rick Beaudette, Vaughan, Dale, Hunter, and Beaudette P.C.
Katie Barnicle, Wetland Scientist AECOM
 - Public None
 - Discussion (5:20) **Beaudette** – We started work on the project without the benefit of a NOI.
Barnicle – This is for an addition to the deck. Submitted photos at the table showing the previously existing conditions. The fence will be replaced with a 3-foot knee wall. The only resource is the flood plain. Submitted at the table 2006 & 2016 site plans with elevations. There is no additional impact to the coastal flood plain.
Erisman – Asked if the new deck will allow for more flow-through.
Barnicle – She doesn’t know the answer to that.
Bennett – There is space under the deck.
Erisman – The 3-foot knee wall won’t allow flow-through. Asked about stormwater infiltrators.
Beaudette – He will have to look into that.
Erisman – She wants to see a formal water infiltration plan. There needs to be some type of creative stormwater management.
 - Staff They have stopped work until the work is approved; they are being compliant.
The main building has gutters. This could be conditioned requiring gutters.
Have everything needed to close.
 - Motion **Motion to Close.** (made by: Steinauer) (seconded by: LaFleur)
 - Vote Carried unanimously
- 8. *LHGS Holding, LLC – 15 Cathcart Road (43-69) SE48-____ (Cont. 03/20/2019)
- 9. *Penant Realty Trust – 4 & 5 Coskata Course Way (14-12,14 & 14.1) SE48-____ (Cont. 03/20/2019)
- 10. *Lauretta Lane Nominee – 5 Lauretta Lane (14-53) SE48-____ (Cont. 03/20/2019)
- 11. RJG Nominee Trust – 13 Crow’s Nest Way (12-19) SE48-3172 (Cont. 03/20/2019)
- 12. Booya, LLC – 9 Crow’s Nest Way (12-20) SE48-____ (Cont. 03/20/2019)
- 13. Harvey C. Jones, Jr – 16 Old North Wharf (42.3.1-253) SE48-____ (Cont. 03/20/2019)
- 14. 28 EPR Trust – 28 Eel Point Road (40-44) SE48-3174 (Cont. 03/20/2019)

B. Amended Orders of Conditions

- 1. Nantucket Islands Land Bank - 63 Madaket Road formerly 21 Crooked Lane (41-480.1) SE48-3122 (Cont. 03/20/2019)

III. PUBLIC MEETING

A. Requests for Determination of Applicability

- 1. 28 Lily Street, LLC – 28 Lily Street (42.4.3-92)

- Sitting Bennett, Erisman, Steinauer, LaFleur
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Jeff Blackwell, Blackwell & Assoc.
- Public None
- Discussion (5:31) **Blackwell** – This is to replace a section of the east and north foundation wall and add an enclosed porch approximately 90 feet from the wetland.
- Staff Recommend this be issued with Positive 2A boundaries verified and Negative 3 for work within resource area
- Motion **Motion to Issue as recommended.** (made by: Steinauer) (seconded by: LaFleur)
- Vote Carried unanimously

B. Certificates of Compliance

- 1. Gibbs – 4 Galen Avenue (29-37) SE48-2822

- Sitting Bennett, Erisman, Steinauer, LaFleur
- Staff They are requesting a withdrawal. We were not satisfied with the amount of grade change within the flood zone.
- Discussion (5:34) None
- Motion **Motion to Accept the withdrawal.** (made by: Steinauer) (seconded by: LaFleur)
- Vote Carried unanimously

C. Orders of Condition

- 1. S/P Norwell, LLC – 104 & 111 Washington Street (55.1.4-38 & 71) SE48-3158

- Sitting Bennett, Erisman, Steinauer, LaFleur
- Staff Will modify Condition 21 stating no cultivars. Will add Condition 25 about vegetating the berm to protect resource areas.
- Discussion (5:34) **Erisman** – Condition 21 kind of talks about cultivars.
LaFleur – There was a comment about a vegetated berm.
Erisman – Noted an error.
- Motion **Motion to Issue as amended.** (made by: Steinauer) (seconded by: Erisman)
- Vote Carried unanimously

2. Harborfront Realty Trust – Village Way (14-2) SE48-3166

Sitting Bennett, Erisman, Steinauer, LaFleur
Staff This is the beach stairs.
Discussion (5:39) None
Motion **Motion to Issue as drafted.** (made by: Steinauer) (seconded by: LaFleur)
Vote Carried unanimously

3. New England Development – 15 South Beach Street (42.4.2-57.1) SE48-3173

Sitting Bennett, Erisman, Steinauer, LaFleur
Staff Will add all roof run-off to be directed by gutters.
Discussion (5:40) None
Motion **Motion to Issue as amended.** (made by: Steinauer) (seconded by: LaFleur)
Vote Carried unanimously

4. Vineyard Wind, LLC – Nantucket Waters – SE48-3164

Sitting Bennett, Erisman, Steinauer, LaFleur
Staff Waiting for a response from Town Counsel. Reviewed the Orders as written with incorporation of the Massachusetts Natural Heritage and Department of Marine Fisheries letters.
Will add Finding 13 about installation of multiple cables possibly having an impact on protected interests.
Reviewed corrections to conditions.

The applicant needs to tell us 60 days in advance of when the cable work will begin so we can start the clock on receiving the pre-construction and post-construction monitoring reports. Our permits cover three years; we have the discretion at the end of that period to carry conditions forward.

He will adjust Condition 22 which addresses the timing for notification.

Discussion (5:42) **Erisman** – If every plot is putting in cables, multiple cables might impact the protected interests; asked how that can be memorialized.

Nate Mayo, Vineyard Wind – They don’t have any information on the other potential projects. He thinks it reasonable to include the finding about the impact of multiple cables in relation to future projects.

Steinauer – He’d be interested in seeing any information on the impact of the cables; Europe has a lot of these wind farms so that information must be out there.

Mayo – He will get that information to Mr. Carlson for distribution to the Board members.

Holly Carlson-Johnson, Epsilon Associates, Inc. – Suggested “approved by Department of Environmental Protection under the Section 4 water quality certificate.”

Mayo – He’s concerned about the 60-day being hard and fast; would like some flexibility built in.

Motion **Motion to Issue a positive order of conditions as amended and subject to modification by the Town Counsel.** (made by: Steinauer) (seconded by: LaFleur)

Vote Carried unanimously

D. Other Business

1. Approval of Minutes February 20, 2019: Adopted by unanimous consent

2. Monitoring Report:

Art Gasbarro informed Staff that Pocomo Neighbors is starting work to cover work that was uncovered; monitoring will start.

3. Enforcement Actions

a. Mothball Way

Staff (6:10) This is a friendly enforcement that he needs to verify. You can’t drive into the cul-de-sac because of Town water, which is about 2 feet from being exposed. He might have to issue an enforcement notice to Wannacomet Water Company to remove it before it falls in the water. He needs to go see the situation.

b. 290 Polpis Road

Staff (6:11) They have exceeded the scope of work on an open permit. They created a temporary access point and there are piles of brush and debris that look like it came from the vegetated wetland.

c. Polliwog Pond Road

Staff (6:12) There is a wetland to the right that is overflowing into a catch basin that is jammed full of stuff. He will send a letter to the neighbors explaining the rules. He doesn’t think this will result in an enforcement order. It doesn’t look like anyone tampered with the wetland.

d. Sheep Pond Road

Staff (6:14) He’s been into the area numerous times due to a lot of erosion. He’s keeping an eye on it.

e. Tom Nevers Town Property

Staff (6:15) The Town is contracting someone to clean it up then will pursue legal action against the previous holders of the material. The immediate concern is to get rid of the debris then over the summer stabilize the situation. The previous owners of the building haven’t been willing to help.

4. Reports:
 - a. NP&EDC, Bennett – meeting at this time.
5. Commissioners Comment
 - a. Erisman – Pocomo Neighbors, she’s concerned that when she goes out for a walk there and finds so much of the structure is uncovered; she wonders if people are checking on it. Wants the photos she took forwarded to fellow commissioners.
Carlson – We had several high-tide cycles coupled with wind; he believes that caused the structure to become uncovered.
 - b. Erisman – Asked if there is phragmites removal is going on at Miacomet Pond.
Carlson – Yes, they were permitted to do the work.
6. Administrator/Staff Reports
 - a. Asked members to pass on to interested persons that there will be an open seat on the commission.
 - b. We are due to perform an update on the regulations.
 - c. Daylight savings starts this weekend; future site visits will be at 4 p.m.

Adjourned at 6:26 p.m. by unanimous consent.

Submitted by:
Terry L. Norton