



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Thursday, May 06, 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, Phillips, Beale

Absent Members: None

Late Arrivals: Phillips, 5:02 p.m.

Earlier Departure: None

Agenda adopted by unanimous consents

\*Matter has not been heard

### **I. PUBLIC MEETING**

#### **A. Announcements:**

#### **B. Public Comment:**

**Emily Molden**, Executive Director Nantucket Land Council – Regarding the appeal of the Commission’s denial under the bylaw of the SBPF expansion of the geotube project, she heard that ConCom signed on with SBPF motion agreeing to postponing the Superior Court site visit as well as the hearing. Nantucket Land Council in conjunction with Nantucket Coastal Conservancy and Greenhill family wrote a letter to the Superior Court judge expressing our concerns about the motion. The motion identified the ARCADIS feasibility study as the reason for the postponement. We don’t feel the outcome of the ARCADIS report is relevant to the appeal and had hoped the conclusion of this appeal would inform the ARCADIS study. We are frustrated and disappointed about the continued delay.

### **II. PUBLIC HEARING**

#### **A. Notice of Intent**

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

Sitting Erisman, Golding, Topham, Engelbourg, Phillips, Beale

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

Representative Gene Crouch, VHB

Rob McNeil, Director Department of Public Works (DPW)

Public None

Discussion (5:08) **Crouch** – We have been working with Massachusetts Natural Heritage to go through their review of our request; a lot of Town falls within Massachusetts Natural Heritage habitat, and we are working to come up with an effective protocol. We have a spreadsheet of activities; some are allowed, and some will require oversight. Massachusetts Natural Heritage issued a no-take letter yesterday morning. This morning, he provided the memo of activities and the spreadsheet as accepted by Massachusetts Natural Heritage.

**Erisman** – She hasn’t seen the Massachusetts Natural Heritage letter; she hasn’t had time to review it. Asked if commissioners want to wait to vote on this until they’ve had time to read the letter.

**Golding** – He wants a chance to read the letter.

**Crouch** – He provided the letter and the backup information; the commission should review both. Asked for a 3-week continuance.

Staff Next meeting is May 27<sup>th</sup>.

Motion Continued to May 27<sup>th</sup>.

Roll-call Vote N/A LaFleur recused

2. \*Town of Nantucket DPW – Surfside Beach (87-60 & 131) SE48-3420 (**Cont. 5/27/21**)
3. Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337 (**Cont. 5/27/21**)

4. \*Nantucket Islands Land Bank – Madequecham Valley Road (89-3.5) SE48-3413  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Art Gasbarro, Nantucket Engineering & Survey  
 Public None  
 Discussion (5:16) **Gasbarro** – We were waiting on Massachusetts Natural Heritage review; received a letter of no take for the removable aluminum stairs.  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
5. \*Sweet Meadow Sylvia Lane, LLC – 74 West Chester Street (41-478) SE48-3379  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 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 work on a developed residential site within the 25’ & 50’ buffers to wetlands on the east, south, and westerly sides. Reviewed the proposed work: driveway material change, increase buffer zones, reconfigure a patio, remove a berm, relocate a propane tank, and patio associated with secondary dwelling.  
**Engelbourg** – Rose of Sharon within the 50’ buffer should be replaced with a native plant. The 5 cedars being mature trees have a higher level of ecological services. White birch is not native to Nantucket. The changes to the driveway, patios, and propane tank are okay.  
**Erisman** – She also has concerns about the removal of the cedars. She recalls this site had enforcement issues.  
**Santos** – There was an Order of Conditions, which wasn’t followed when the property was developed. He doesn’t recall there being an Enforcement Order. Prior restoration work had to do with changing a manicured lawn to bluestem grass.  
**Phillips** – Mature trees are valuable to the eco system, especially next to the wetland.; if they are being removed for aesthetic reasons, she would support a way to keep some of them.  
**Santos** – There are a number of cedars that will remain; the 5 to be removed are west of the driveway.  
**Engelbourg** – He’d prefer a native species to replace the cedars being removed such as eastern red cedar. If it were outside the 25’ buffer, he’d be okay; he doesn’t think removal of mature trees is justified.  
**Santos** – Asked for a 3-week continuance  
 Staff None  
 Motion Continued to May 27<sup>th</sup>.  
 Roll-call Vote N/A
6. \*EPWL Poles, LLC – 44,46,48&55 Warren’s Landing (38-23,46,47&30) SE48-3418  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Paul Santos, Nantucket Surveyors  
 Public None  
 Discussion (5:33) **Santos** – This is to eliminate utility poles in favor of burying utilities. We were waiting for response from Natural Heritage and Endangered Species Protection (NHESP); we have that. A large portion of this project goes past Nantucket Islands Land Bank, who can’t grant an easement, only a license; National Grid won’t accept a license.  
**Erisman** – Asked if the plans change, would they come in for an amendment.  
 Staff They would have to apply for an amended Order of Conditions or minor modification.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Beale) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
7. \*MLR3, LLC – 45 Shawkemo Road right of way (27-18) SE48-3411  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, 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 R.J. Turcotte, Nantucket Land Council, Inc.  
 Discussion (5:37) **Madden** – Reviewed supplemental information and alternatives as requested at the prior hearing. The 25’ buffer was previously altered and so isn’t intact. All expansion is on the south side of the driveway with silt barriers along the north side. A 10’-wide way complies with State minimum requirements for emergency access. The property owner at 8 Wingspread has responded that they are not interested in relocating the driveway outside of the 25-foot buffer.  
**Engelbourg** – He requested an official ruling from Town Counsel for the applicability of the requested waiver; as he reads the waiver requirements, the right of way should not be in the control of the property owner. He understands it was issued in 2019, but there is a possibility it was issued in error.

**Reade** – As per the materials submitted, this way has been in existence since the 1800s and shows up in 1930s land court records and has been used by the general public. As a matter of property rights, the owner has the right to make improvements to ensure more suitable access. At the last meeting, there was interest shown in the history: Planning Board involvement in the roadway and lot. The lot was created in 1969.

**Erisman** – Appreciates the historic photos, but they highlight Nantucket’s need to come to terms with current development. Just to build the house, there will be a tremendous amount of truck traffic using that roadway. The historic roads don’t work with current development practices and the Island needs to consider moving them.

**Engelbourg** – Just because something has existed historically and been used, possibly illegally, that isn’t the same as being a public way. He’s asking for a technical opinion on the status of the way.

**Topham** – This road has been neglected and work needs to be done to make the lot accessible. If this road had been properly maintained, there would be no discussion.

**Madden** – We shortened the length of the improvements within the 25’ buffer by shifting the entrance outside the 25’ buffer.

**Engelbourg** – His points have nothing to do with development but with the technical understanding of when our waivers can be applied. He doesn’t want to overextend the waiver into an area where it is not applicable. He feels the burden of proof has not been met for the no adverse impact/no reasonable alternative waiver.

**Beale** – At the last meeting, he drove to the site in his full-sized Jeep Cherokee and got in and out without any scratches. Asked Mr. Reade’s opinion if the Planning Board would deny the permit for a single-family dwelling based upon the road.

**Reade** – They could, based upon the fact if the extension of the roadway is a driveway. IN the provisions of the bylaw relating to access, there is a minimum of 10 feet. Currently, there is not a constructive access of 10’ into the lot as required by the bylaw. The Building Commissioner and Zoning Enforcement Officer could in the first instance listed in the bylaw.

**Turcotte** – The Commission should look at the correspondence from the Fire Chief; he asked a specific question and received a specific answer. The right of way is not the driveway. The Commission was correct in granting the waiver in 2019; this time is different because the work is up against the buffer and under the control of the owner.

**Erisman** – She too would like Town Counsel to look at this, but it might not be realistic.

**Reade** – He wants to give Mr. Carlson a chance to do his research; what comes out of that might require us to submit additional information. Asked for a 3-week continuance.

Staff He can look into getting Town Counsel to rule on the public/private status of the right of way. First he’ll reach out to Planning Director Andrew Vorce. There are 2 resource areas in play - policy coastal bank and wetland - with different buffers.

Have everything needed to close.

Motion Continued to May 27<sup>th</sup>.

Roll-call Vote N/A

8. \*04TST36WASINGPOND, LLC – 36 Washing Pond Road (31-13.2) SE48-3425

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

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

Representative Art Gasbarro, Nantucket Engineering & Survey

Public None

Discussion (6:04) **Gasbarro** – This is for landscaping within the buffer to the top of coastal bank. He provided revised plans converting a portion of the raised walkway to a walking path. We were waiting for Massachusetts Natural Heritage sign off and have received that.

**Engelbourg** – The only thing he requests to see is, within the 50’ buffer where the boardwalk is still proposed, there are 2 sections that come up to each other; asked those be made a single section minimizing the footprint.

**Gasbarro** – He’d have to go back to the client for that. They have kept all other structures outside of the buffer zones. He doesn’t feel a small jog like that will have an impact on the protected area.

**Beale** – Appreciates the change to the walking path though he would prefer if it were all a walking path.

**Erisman** – The section of path from the 50’ buffer to the stairs; asked if that would a mown grass path.

**Gasbarro** – It would be a maintained path to create a stable walking surface for people using crutches or walkers. That’s why it was labeled as lawn.

**Erisman** – Because this is for seasonal access, asked if they would be amenable to a more stable surface that can be removed at the end of the season. Established lawn requires irrigation and fertilization.

**Gasbarro** – We included a seasonal type walkway, such as mobi mats, in our discussion of alternatives; he feels there would be more impact from the seasonal removal and installation than from running a 4’ wide mower up and back once a week.

**Erisman** – You can’t establish lawn in the 25 without irrigation. There would be ways to mark the side of the path so mobi mats stay within the approved area.

**Engelbourg** – Asked about using stone dust or grass pavers to add structural support.

- Gasbarro** – Grass pavers would be more invasive within the 25’ buffer than a walking path. Shell or stone would require some edging to keep it in the path.
- Golding** – He likes the compromise Mr. Gasbarro came up. We could condition this that no fertilizer be used within the area of the protected interests.
- Engelbourg** – He’d support conditioning this.
- Phillips** – She agrees with Mr. Golding. She wonders if there is a way to condition this requiring annual monitoring and see how it works after a year.
- Erisman** – She believes this can be conditioned.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Golding) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
9. \*Nantucket Islands Bank – Smooth Hummocks South End of Westerwyck Way (82-30) SE48-3426
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Art Gasbarro, Nantucket Engineering & Survey
- Public None
- Discussion (6:23) **Gasbarro** – This is a seasonal set of stairs to get down onto the beach without traversing the coastal bank. We haven’t heard from Massachusetts Natural Heritage. Asked for a 3-week continuance.
- Staff None
- Motion Continued to May 27<sup>th</sup>.
- Roll-call Vote N/A
10. \*Carver, Jr. & Delaney – 4 Old Quidnet Milk Route (20-53) SE48-3423
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Mark Rits, Site Design Engineering
- Public None
- Discussion (6:25) **Rits** – This is for a shared driveway. Received no-take determination from Massachusetts Natural Heritage.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Topham) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
11. \*4 Ahab Road, LLC – 41 Wauwinet Road (20-7) SE48-3424
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Mark Rits, Site Design Engineering
- Public None
- Discussion (6:27) **Rits** – For redevelopment of a residential property and a shared driveway. Existing driveway will be abandoned and be used for the solar array. We were waiting for Massachusetts Natural Heritage. This and the Quidnet Milk lot are held in common ownership.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Beale) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
12. \*Randolph G. Sharp, Jr. Trust – 49A Meadowview Drive (56-113.1 portion) SE48-3414 (**Cont. 5/27/21**)
13. \*Isaiah Truymen – 117 Orange Street (55-377) SE48-3427
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Ryan Maxwell, Bracken Engineering
- Public None
- Discussion (6:30) **Maxwell** – This is for construction of a deck within land subject to coastal storm flowage and within 100 feet of a wetland. The deck will replace the existing stoop.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Topham) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**III. PUBLIC MEETING**

**C. Minor Modification**

1. Luxury Brands, Inc – 100 Low Beach Road (75-27) SE48-3027

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Public None

Discussion (6:32) **Madden** – Reviewed the revised plant list eliminating non-native species. The privet along Low Beach Road is outside the 100’ buffer. He checked the Massachusetts invasive species list, which stated flowering dogwood as native to Nantucket.

**Erisman** – Appreciates the change to native species.

**Engelbourg** – Appreciates the change to the plant list. He’s not thrilled about including flowering dogwood; given that they are all outside the 50’ buffer, he’d hesitantly approve it. (Retracted his statement about the dogwood.)

Staff Have everything needed to issue a minor modification

Motion **Motion to Issue the Minor Modification.** (made by: Golding) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. Amy M. Ambrecht – 13 Giny Lane (41-850) SE48-3273

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None

Discussion (6:36) **Rits** – This is to reconfigure the pool and add a spa within the 50’ buffer to a wetland. The pool is separated from the off-site wetland by a wall and house and buffer.

Staff Have everything needed to issue

Motion **Motion to Issue the Minor Modification.** (made by: LaFleur) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

3. Locke – 34B Grove Lane (41-433) SE48-2416

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Paul Santos, Nantucket Surveyors  
 Public None

Discussion (6:38) **Santos** – This is to change a building groundcover from 334sf to 288sf. No grade change is proposed.

Staff Have everything need to issue

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

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**D. Certificates of Compliance**

1. Sweet Meadow Sylvia Lane, LLC –74 West Chester Street (41-478) SE48-3017

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Representative Paul Santos, Nantucket Surveyors  
 Staff He has reviewed the work and agrees with the assessment the site is in compliance. Recommend issue with on-going Conditions 20, 21, 22, and 23.

Discussion (6:40) **Santos** – This is to close out the Order of Conditions for a prior NOI. Wilkinson design was charged with invasive removal covered by a bond. Work is in substantial compliance. Annual monitoring reports are attached to the packet. Read a letter from Wilkinson dated January 2021 regarding the completion of the restoration.

Motion **Motion to Issue with on-going Conditions 20, 21, 22, and 23.** (made by: Topham) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. 85 North Sankaty, LLC – 85 Sankaty Road (49-91) SE48-3226

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Representative None  
 Staff For residential development; work is completed in compliance. Recommend issuing with on-going Conditions 19, 20, & 21.

Discussion (6:45) None

Motion **Motion to Issue with on-going Conditions 19, 20, & 21.** (made by: Topham) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

3. Town of Nantucket – Sesachacha Road (21-20) SE48-2967

4. Alan A. Shuch, Trustee – 45 Quidnet Road (21-21) SE48-2968

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Representative Seth Wilkinson, Wilkinson Ecological  
 Staff We can take these together. Recommend issue with on-going Condition 19 in the event more plant material is removed.

Discussion (6:46) **Wilkinson** – This was for invasive species mitigation. We’ve reach functional eradication and native species are establishing well.

Motion **Motion to Issue SE48-2967 &SE48-2968 with on-going Condition 19.** (made by: Engelbourg) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**E. Orders of Condition**

1. Nantucket Islands Land Bank – Madequecham Valley Road (89-3.5) SE48-3413

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

Documentation Draft Order of Conditions

Staff Not a lot of conditions for seasonal beach stairs.

Discussion (6:50) None

Motion **Motion to Issue as drafted.** (made by: Golding) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. EPWL Poles, LLC – 44,46,48&55 Warren’s Landing (38-23,46,47&30) SE48-3418

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

Documentation Draft Order of Conditions

Staff This is to relocated utilities underground; if plans are changes, they have to come in.

Discussion (6:51) None

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

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

3. 04TST36WASINGPOND, LLC – 36 Washing Pond Road (31-13.2) SE48-3425

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

Documentation Draft Order of Conditions

Staff He will add a Condition 19 prohibiting fertilizer, pesticide, and irrigated, Condition 20 requiring the grass path be marked, and Condition 21 requiring the grass to be native.

Discussion (6:52) **Erisman** – No fertilizers and no pesticides and no permanent irrigation. The path should be staked out beforehand.

**Engelbourg** – Feels the grass seed should be required to be a native species.

Motion **Motion to Issue as amended.** (made by: Golding) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

4. Carver, Jr. & Delaney – 4 Old Quidnet Milk Route (20-53) SE48-3423

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

Documentation Draft Order of Conditions

Staff Very simple and straightforward.

Discussion (6:56) None

Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

5. 4 Ahab Road, LLC – 41 Wauwinet Road (20-7) SE48-3424

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

Documentation Draft Order of Conditions

Staff Recognizes a 3<sup>rd</sup> structure not in our jurisdiction. Conditioned the pool not to be drained or discharged into our area of jurisdiction.

Discussion (6:57) None

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

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

6. Isaiah Truymen – 117 Orange Street (55-377) SE48-3427

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

Documentation Draft Order of Conditions

Staff No special conditions.

Discussion (6:58) None

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

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**F. Other Business**

1. Approval of Minutes 4/22/2021:

Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. Reports:

a. None

3. Penant Realty, LLC – 4&5 Costaka Course Way (14-12, 14 & 14.1) SE48-3177

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Photos  
 Speakers Seth Wilkinson, Wilkinson Ecological

Art Gasbarro, Nantucket Engineering & Survey

Discussion (7:01) **Erisman** – She took photos in 2018 and again this past weekend.

**Carlson** – Ms. Erisman contacted him about work regarding installation of a fiber-roll array.

**Wilkinson** – This was permitted a couple of years ago; we started implementation in November 2020. We expect to wrap up work later this month with a little bit of sand nourishment in the first week of June. A lot of groundwater moves through this land form. We’re excavating into the bank to install the fiber rolls. The water creates muddy working conditions. The erosion control blanketing is underway.

**Erisman** – She was opposed to the project because of the diversity of sediment, the clay layer, and the amount of water. With excavating into clay, it seems more water is trapped back there with the evidence of algae, and she’s concerned about the long-term impact of altering the clay layer.

**Wilkinson** – He’d be surprised if there weren’t elevated nutrients in the water; that would instigate algae growth. Regarding altering the clay layer, there is some excavation but it’s all being placed back where it was back onto the array; the contour of the bank is pretty similar to what it was before work started. Everything flows down to the estuary so there shouldn’t be any ponding.

**Gasbarro** – Regarding how the groundwater will move upon completion, he’s noticed from the adjacent project that where it was wet on the beach before, it will continue be wet. As the overall system reaches equilibrium, that water will move naturally through the fiber rolls.

**Erisman** – In one photo it looks like a bucket was left in the bank in an area of extreme water flow; it looks like that area wants to slump. Asked how they plan to handle that.

**Wilkinson** – One thing we observed is it’s not unusually to see significant sloughing of the soil. We are shooting to have a more stabilized toe to minimize the sloughing. To preserve a natural draining pattern, we leave an area open with a temporary tight form to allow continued runoff; once the rolls are in place, we pull those forms out.

**Engelbourg** – His main concern is the bright green algae growth in the wet areas. A toxic algae bloom on a beach is a concern; asked if they are monitoring temporary ponding.

**Wilkinson** – From a protocol standpoint, we impound water as much as possible while we move down the row; once the rolls are fastened in place and covered, the water is removed. He’s not sure about monitoring the algae; as we get into higher tides, he thinks the algae will disappear.

**Erisman** – She’d like the algae to be monitored. Appreciates their answers to her questions.

Motion No action at this time.

Roll-call Vote N/A

4. Enforcement updates: Town of Nantucket – 79 Baxter Road SE48-1659

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Findings and Additional Conditions  
 Representatives Dwight Dunk, Epsilon Associates Inc.  
 Glenn Wood, Rubin & Rudman, LLP

Public Rick Atherton  
 Burton Balkind

Discussion (7:19) **Carlson** – Last time we talked about the enforcement, issues with lack of notification on work to be done. potential work below the highwater line, and pedestrian access across the beach. He issued out an Enforcement Order to SBPF, Town of Nantucket, and the owner of 79 Baxter Road. He put together a sheet of findings and conditions and included it in the draft packet. Reviewed the Findings and Additional Conditions.

**Golding** – From his point of view, the peninsular effect of the coir armoring project extends beyond the high-tide line. He wants a condition where we have an independent 3<sup>rd</sup> party to monitor this throughout the year.

**Topham** – After hearing about climbing over the structure and how much they’ve been exposed, he noted they aren’t breaking apart and leaching; asked if they are actually coir rolls.

**Erisman** – They have been rebuilt in the same location; she recalls that from major storms 3 years ago.

**Golding** – When he’s had to climb over them, they are as hard as the geo-tubes. He wants it to be shown specifically whether or not they extend beyond the high-tide line as documented by a 3<sup>rd</sup> party.

**Carlson** – The coir tubes have been most recently rebuilt about a year ago. In 2013, the structure had a significant failure.

**Erisman** – asked about the feasibility of monitoring the ability to pass this location.

**Carlson** – We could put together a schedule to take photos selecting dates from the tide chart the 4 highest tides. We don’t have to bring in a 3<sup>rd</sup> party. We will have to go out to monitor endangered species several times a week in the summer and can monitor this site at the same time.

**Dunk** – One question raised is the mean high water; that’s determined from the mean tide cycle. There is also a difference between mean high water and wave runup, which is determined by wave conditions and tide. He feels they will find the rolls are not seaward of mean high water.

**Golding** – He takes Mr. Dunks point; that’s why he wants the monitoring to extend beyond the summer.

**Carlson** – We’ll try to review this monthly.

**Atherton** – It’s difficult for the public to respond to what appears to be an arrangement between the owner, the owner’s consultants, and staff because they did not see anything until tonight. Encouraged the Commission to let the public have access to information in advance of the meeting. He assumes the original approval had a certain number of layers of coir bags; asked that be confirmed. Concerns about the installation of soft arrays started with the dumping of contaminated sand; he hasn’t heard anything about that today. Asked if there is any admission that actually occurred. His general impression is that the applicant has been in touch with Town staff; he’d appreciate knowing what occurred prior to the presentation of tonight’s documentation.

**Carlson** – We looked at the permitted conditions and if the project is in compliance; Staff determined that it was. He wrote out the findings and conditions today; the only people who saw it prior to the meeting is the Commission. We don’t historically put out draft orders to the public. He had discussions with everyone about how to address the issue of enforcement and decided this was the best way to go about it.

**Dunk** – We have had no negotiations or back-door discussions with the Commission or Staff. We had one meeting with Mr. Carlson, Town Counsel, and the land-owner’s attorney about the Enforcement Order.

**Carlson** – Burton Balkind wrote on YouTube, “The eye test as Ian noted, you see the equipment below the rack line and tractor tracks in the surf zone; the mean high tide has less meaning. That said I think Ian points about monitoring is all the more important.”

**Golding** – He would like Mr. Carlson to add the monitoring condition we discussed.

**Carlson** – He would prefer to do it informally. We’ll attach the original Enforcement Order and send it around to all parties concerned; noted the named applicant is SBPF, and the owners are Helmut Weymar and Town of Nantucket. A copy will also be sent to Massachusetts Department for Environmental Protection (DEP) for their records.

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

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

5. Commissioners Comment

a. **Erisman** – About our coastal projects, while walking in Pocomo, it’s become abundantly clear that what she’s seen happen is these are coastal engineering structures (CES). Even soft arrays are a permanent change to the natural system. She hopes to discuss that during our regulations update. Also, we need to beef up standards for wetland scenic view; the aesthetic value of these resource areas is ecological diversity; we’re losing that with these coastal arrays.

**Engelbourg** – He’d like more context for the history of why soft arrays are not considered a CES.

**Carlson** – He’ll put that together; a lot came from DEP guidance.

**Golding** – It was CZM or DEP who ruled they aren’t CES.

**Topham** – Ernie Steinauer was trying to hammer those things out. Now that they are being maintained, some of the descriptions or definitions have changed regarding the use of soft arrays.

6. Administrator/Staff Reports

a. There is an extensive article in the paper on the Town looking at the committee appointment process; we will be looking for someone to replace Mr. Topham. Asked that if anyone knows someone, encourage them to apply; if they have any questions, have them talk to him; he’ll answer any questions.

**Topham** – That is one reason why he gave early notice; now the decision is only 2 weeks away.

**G. Adjournment**

Motion **Motion to Adjourn at 7:56 p.m.** (made by: Topham) (seconded)

Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

Submitted by:  
Terry L. Norton