



CONSERVATION COMMISSION SPECIAL MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Wednesday, June 15, 2022 – 4:00 p.m.

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

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

Called to order at 4:03 p.m. by Ms. Erisman

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

Attending Members: Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Absent Members: LaFleur

Late Arrival: Phillips, 4:09 pm; Williams, 4:35 pm

I. PUBLIC MEETING

A. Public Comment - None

B. Revision to Town of Nantucket Wetland Protection Regulations

Sitting Erisman, Golding, Engelbourg, Phillips, Beale, Williams

Documentation Codified Draft Regulations, Draft Viewshed Management Guidelines, Regulation Update, Wetland Bylaw, Wetlands Protection Regulations – Arlington, Groton, & Hamilton

Discussion (4:04) **Golding** – He has 3 additions: under definitions, “Substantially Improved” change to include habitable space expanded or reduced more than 20%; Inland Waters Performance Standards change 50% of the 50’ buffer to 75% or 80% of the 50’ buffer not to be changed; under “beach compatible fill”, wants to add some of the conditions that Florida uses.

Beale – Wants to add “no patios allowed in the 25’ or 50’ buffers.”

Erisman – We’ve talked about how patios compact the surface.

Engelbourg – Some of his comments overlap Mr. Golding’s. Under “Substantially Improved”, he wants to discuss the 20% rule no longer being relevant; also wants to add “50% improvement to property constitutes substantially improved.” In terms of compatible sand, he wants to add color and testing. He has a lot of comments about buffer-zone areas. He advocates for a definition for great pond and to require a 200’ buffer for those in the same way a vernal pool has a larger buffer zone; listed precedence to support this.

Golding – Asked if we should look into that might be challenged at the State level. He’s concerned a property owner could challenge it as an unjust taking.

Carlson – There’s a town that already has something similar in place. A municipality may make its regulations more restrictive than the State. To take land, you have to deny them any possible use; that isn’t the case with an expanded buffer zone.

Phillips – Asked if ConCom could expand resource area buffers from which pools would be banned.

Erisman – She thinks it would have to be tied to Performance Standards.

Discussion about using scientifically supported reasons to ban pools from within buffer zones.

Engelbourg – Suggested adding that not allowing waivers for 2’ separation from ground water for pools. He’d like to see a better definition for “normal maintenance and repair.” Asked for a general taxonomy update. He’d like to see a change regarding impervious surfaces within buffer zones so that they would require a waiver. He’d also like ConCom to reevaluate the numbers for the buffer zones: are 25’, 50’, & 100’ still relevant or should they be increased.

Erisman – In Europe, coastal and wetland buffer zones are much greater than ours.

Carlson – A similar concept he has thought about requires a 2:1 development to mitigation ratio.

Golding – He’d like to see a combination of the two; our wetlands are under a lot of pressure from development and climate change.

Engelbourg – In his comment, he linked 2 peer-review articles about buffer zones. For a lot of endangered species 25’ is not sufficient.

Beale – He would support increasing the buffers but thinks there would be a lot of push back.

Phillips – Increasing the no-build buffer from 25’ to 50’ makes sense; the fact we have jurisdiction of only up to 100’ is horrifying. Conditions have changed since those limits were established.

Golding – Pools are impervious; that doesn’t seem to be part of our conditions requiring compensation. Suggested adding a condition to pools so that they have to have a compensation ratio of 2:1.

Williams – A lot of the people she’s done pools for do only the coping. She’s already heard push back on increasing the buffer zones.

Carlson – Our process to update the regulations is similar to that used by the Select Board: first spread time through meetings for discussion of changes to produce a draft, then have that reviewed by Town Counsel; and then hold the public hearing on a complete document.

Golding – Suggested developers could email their feedback to Mr. Carlson.

Engelbourg – His last suggestion is to add the MIPAG (Massachusetts Invasive Plant Advisory Group) list and update the Nantucket Invasive Species List. He supports removal of invasive species, in some projects, but feels doing that doesn't qualify as a net benefit; it but should be coordinated with other mitigation efforts.

Erisman – We now have a draft and more to put into it; we can carry it to our next meeting for further discussion.

Carlson – He will have a whole draft ready and posted for the Thursday, June 23rd meeting. He will post a red-line version and clean version, so people can see all the changes.

Beale – Asked about the 200' buffer for the great ponds.

Erisman – It's valuable given the declining health of our ponds; it would allow for a closer look at an area that impacts the resource area.

Engelbourg – Include that but don't change the other buffer zones. Moving the 100' to 200' would require more projects to come to us without impacting the intent of the projects.

Beale – He's concerned about dense development crammed right up against the 50' buffer; he would support increasing the no-disturb and no-build zones.

Motion Continued to Thursday, June 23rd.

Roll-call Vote N/A

C. Executive Session

Motion **Motion to go into Executive Session Pursuant to MGL C. 30A § 21(A) for Purpose 3: To Discuss Strategy with Respect to Litigation with Regard to Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission. And, to Discuss Strategy related to the proposed Memorandum of Understanding between the Town of Nantucket Select Board and Siasconset Beach Preservation Fund with Respect to Litigation with the Siasconset Beach Preservation Fund (SBPF) Geotextile Tube Project Removal Order (SBPF v Nantucket Conservation Commission), where an Open Meeting May have a Detrimental Effect on the Litigation Position of the Conservation Commission at 4:57 pm. with no intent to return to open session. (made by: Williams) (seconded)**

Roll-call Vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, Phillips, and Williams-aye

Submitted by:
Terry L. Norton

