



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, June 19, 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 5:07 p.m.

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

Attending Members: Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

Absent Members: None

Agenda adopted by unanimous consent

\*Matter has not been heard

### **I. PUBLIC MEETING**

#### **A. Announcements**

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

1. **Bill Grieder**, 10 F Street – Addressed a diesel fuel spill at the Walter Barrett Pier; he took photos and contacted the Nantucket Fire Department (NFD) chief, who told him it was not a permitted activity.

**Golding** – He got a call from someone who witnessed a diesel spill, possibly today, of at least a gallon; the witness named the person thought responsible, who fuels two boats from a pickup. This witness asked that all steps be taken to stop this activity.

**Carlson** – Through the NFD, no one has a permit to fuel on that pier; we are partnering with the NFD to prohibit any and all fueling at that pier. It would be best to regulate this through the fire code, which is extremely strict. Fire Chief Steve Murphy can withdraw a fuel hauling license of any commercial hauler taking fuel to the pier. A two-pronged approach is signage prohibiting fuel operations and to provide a written warning to individuals who undertake fueling operations. Madaket Marine is a licensed refueling point. Staff is working with the NPD and hoping to resolve connectivity issues for the installation of a camera at the pier.

### **II. PUBLIC HEARING**

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

1. Mary D. Starr – 19 East Creek Road (55-60) SE48-2985
2. Gregory Reyes – 19 East Creek Road (55-60) SE48-3065

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (5:18) **Santos** – Asked the commission to continue both Items 1 & 2 to the next meeting. Explained the reasons why.

Staff None

Motion Continued to July 3, 2019 by unanimous consent.

Vote N/A

3. Town of Nantucket – Jetties Beach, Jetties Beach Playground, the end of Jefferson Avenue & Children’s Beach (29-1, 29-2, Road Layout, 42.4.2-9) SE48- 3200

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

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

Representative Mark Voigt, Facilities Manager Department of Public Works (DPW)

Public None

Discussion (5:19) **Voigt** – We still haven’t heard from Massachusetts Natural Heritage. The walkways are built and ready to be installed. People are calling asking about this year’s lack of accessibility to the beaches.

Staff Suggested continuing to July 3. There will be a quorum.

Motion Continued to July 3, 2019 by unanimous consent.

Vote N/A

4. The Catherine S. Felleman Revocable Trust – 4 Woodbine Street (87-57) SE48-3204  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Don Bracken, Bracken Engineering  
 Public None  
 Discussion (5:22) **Bracken** – This was held for a response from Massachusetts Natural Heritage; they ruled no take. Reviewed project.  
**Golding** – Asked if the installation of tank pad will be able to contain a fuel spill.  
**Bracken** – He doesn't think that is required for outdoor tanks. There is no basement where it can go.  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Champoux) (seconded by: LaFleur)  
 Vote Carried unanimously
5. \*Charles Johnson – 25 Old North Wharf (42.3.1-262) SE48-3210  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Carlos Pena, Foth Engineering  
 Public None  
 Discussion (5:26) **Pena** – This is to replace/repair the piles supporting the cottage. The resource area is rocky intertidal shores. Explained the extent of the repair/replacement. Today we were asked to do all 7 piles with work in October.  
**Steinauer** – Asked if an update plan is necessary noting the additional piles.  
 Staff What we have is sufficient documentation.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded by: Steinauer)  
 Vote Carried unanimously
6. \*Highgarden Holdings, LLC – 49 Hulbert Avenue (29-14&14.1) SE48-3207  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Public None  
 Discussion (5:29) **Madden** – Structural and landscaping work for a single-family dwelling (SFD); resource areas are a flood zone and coastal dune and involves some evasive species management – bittersweet and Japanese knotweed.  
**Erisman** – Asked how the knotweed would be treated.  
**Madden** – Hand remove and individually treat plants if it resprouts. Nothing will be planted in the dune once the bittersweet is removed; it's well vegetated with natural vegetation.  
 Staff Our performance standards prefer an elevated boardwalk. He thinks no waiver required for the invasive species removal.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Golding) (seconded by: Steinauer)  
 Vote Carried unanimously
7. \*Richard & Dianna Chesley – 32 West Chester Street (42.4.3- 51 Lot C) SE48-3208  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Don Bracken, Bracken Engineering  
 Public None  
 Discussion (5:39) **Madden** – This is a subdivided lot; resource areas are a bordering vegetated wetland on 34 West Chester Street. Development is outside the 50-foot buffer for a SFD with attached garage, utilities, and pervious driveway. Will plant to facilitate absorption of water; groundwater is high. Foundation is slab with minimal encroachment into high groundwater; we have permission from the DPW to dewater into the Town management system if necessary.  
**Bracken** – Most flooding is associated with the existing house; the solution is to put in a pump system. The old line should be replaced, according to Rob McNeil, Director DPW.  
**Erisman** – Wants markers to delineate the limit of work and protect the existing vegetation.  
 Staff The new system will require a filing.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Topham) (seconded by: Steinauer)  
 Vote Carried unanimously
8. \*Richard E. Behrman Trustee – 272 Polpis Road (25-30) SE48-3209 (**Cont. to 7/3/2019**)

9. \*Louis B. Ames – 113A Wauwinet Road (12-45) SE48-3214  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None  
 Discussion (5:48) **Rits** – This is to construct a well inside the 25-foot buffer to the wetland resource area; the location meets Board of Health (BOH) setback requirements. Also install a water line from the well to the house; any disturbed vegetation would be replanted in kind in the buffer zone. The area has been heavily altered with fill on abutting properties. There is some landscaping but then also overgrown, semi-native vegetation. Most disturbance can be avoided using a small drill rig. The property is a bowl with clay at the bottom holding water; the well would go to the water table below that.  
**Erisman** – This is a less than ideal location; it depends on the skill of the person drilling.  
**Bennett** – They will pump a lot of water while doing that.  
**Rits** – This is an area with approached water table and the well would punch down much deeper than that. There would be no damage to the breaking the clay surface.  
**Bennett** – They have a system that is working.  
**Rits** – Gets the sense the commission isn’t feeling favorable; asked to withdraw without prejudice.  
 Staff This is being proposed to service the existing building of Lot A; it is currently serviced by a well on the contiguous lot to the south. You can uphold the standards or grant waivers.  
 Motion **Motion to Accept the withdrawal.** (made by: Steinauer) (seconded by: Topham)  
 Vote Carried unanimously
10. \*36 Crooked Lane, LLC – 36 Crooked Lane (41-330) SE48-3213  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None  
 Discussion (5:57) **Rits** – Brush cutting and grading outside the 25-foot buffer; the wetland resource areas were delineated under separate RDAs and NOIs. The whole area will have a silt fence.  
**Champoux** – Asked why the whole site is being cleared.  
**Rits** – In anticipation of the development plans. The trees within the clearing area will be removed. Consensus agrees they prefer not to see the entire lot clear cut due to the existence of mature growth trees.  
**Rits** – Offered to reduce the scope of work to grading for the driveway and come back with the full development. Could clear the underbrush and leave the trees for the final design.  
 Discussion about how to alter the plan to preserve the existing trees.  
 Staff This Board has required things of certain size to be kept and protected; could do that here until the site design is set.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Steinauer) (seconded by: Topham)  
 Vote Carried unanimously
11. \*Polpis Harbor, LLC – 250 Polpis Road Lot 1 (26-27) SE48-3211  
 12. \*Polpis Harbor, LLC – 250 Polpis Road Lot 2 (26-27) SE48-3212  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None  
 Discussion (6:06) **Rits** – Reviewed previous NOIs for this property. This is to construct separate septic systems: trenches outside the 100-foot buffer, tanks and plumbs are outside the 50-foot buffer, and two new wells.  
**Erisman** – She’s been wondering about restoration work and the certificate to come back. Asked how that was going.  
**Rits** – He currently doesn’t have an actual survey to say if restoration has occurred; we did maintain all erosion barriers. There is no water or power going to the boathouse, which is now a shed.  
 Staff This is the same work for abutting lots; these could be done together.  
 In the site inspection, we looked at the path and were unable to recover any pipes that had been there and there hasn’t been further cutting of the path. Also looked at the left side of the existing driveway; that was let go and we could follow the 25-foot buffer markings just inside the brush. The boathouse had some work done on it, but the condition of the path indicates it hasn’t been used in a while.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded by: Champoux)  
 Vote Carried unanimously
13. \*Marsha Fader – 36 Liberty Street (42.3.4-83) SE48-3206 (Cont. to 8/28/2019)

**III. PUBLIC MEETING**

**C. Requests for Determination of Applicability**

1. Pierre Crosby – 10 Waquoit Road (89-11)

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Jeff Blackwell, Blackwell & Associates  
 Public None  
 Discussion (6:16) **Blackwell** – This is to move an existing house away from an eroding coastal bank. The septic is behind the house. The area where the house currently sits will be graded and naturalized after the move. Erosion on the bank is probably 2 feet a year.  
 Staff Once they cross the 100-foot buffer, they can put the structure wherever they want.  
 Recommends issuing as a Positive 2 confirming the resource areas and Negative 3 for work within the buffer.  
 Motion **Motion to Approve as recommended.** (made by: Steinauer) (seconded by: Champoux)  
 Vote Carried unanimously

**D. Certificates of Compliance**

1. Gallagher – 45 Millbrook Road (56-232) SE48-3066

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff This was for a septic upgrade. The BOH has signed off on this.  
 Discussion (6:20) None  
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: LaFleur)  
 Vote Carried unanimously

2. Town of Nantucket – Hummock Pond Road – Milk Street to Cisco Beach (66-129) SE48-2437

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff There are a couple of spots that had substantial road runoff; we have two choices: 1) issue a friendly enforcement for the work done and have the area reseeded with appropriate mix; 2) hold the certificate.  
 Discussion (6:22) Consensus would like the “friendly enforcement” be issued to get the area repaired and seeded.  
**Steinauer** – Noted there is knotweed in that area that should also be removed.  
 Motion Continued to July 3 by unanimous consent.  
 Vote N/A

3. Van Vorst – 8 Old Quidnet Milk Route (20-8.6) SE48-3149

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Staff We need the BOH sign off.  
 Discussion (6:25) None  
 Motion Continued to July 3 by unanimous consent.  
 Vote N/A

**E. Orders of Condition**

1. The Catherine S. Felleman Revocable Trust – 4 Woodbine Street (87-57) SE48-3204

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff None  
 Discussion (6:25) **Erisman** – Talked about adding a lip to the concrete pad to contain a fuel spill.  
**LaFleur** – The pad has to be able to drain water. If you put a lip on it, then it has to be covered.  
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: LaFleur)  
 Vote Carried unanimously

2. Charles Johnson – 25 Old North Wharf (42.3.1-262) SE48-3210

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff Condition 18 requires the final plan of record.  
 Discussion (6:28) **Steinauer** – Asked about an updated plan for the additional piles.  
 Motion **Motion to Approve as drafted.** (made by: Steinauer) (seconded by: Golding)  
 Vote Carried unanimously

3. Highgarden Holdings, LLC – 49 Hulbert Avenue (29-14&14.1) SE48-3207

Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff Will add Condition 25 prohibiting fertilizer.  
 Discussion (6:31) **Erisman** – Asked if there should be something about a percentage set on the surviving coverage after the knotweed is removed.  
**Golding** – They clearly want to remove the knotweed.  
**Bennett** – Asked if there should be a caveat against fertilizer being used.  
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded by: Champoux)  
 Vote Carried unanimously

4. Richard & Dianna Chesley – 32 West Chester Street (42.4.3- 51 Lot C) SE48-3208  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff This is similar to the last one. Condition 25 protects areas of natural vegetation. Left off the condition about debris not being left in the buffer zone.  
 Discussion (6:33) **Erisman** – Wants to protect the areas of natural vegetation.  
 Motion **Motion to Approve as amended.** (made by: Topham) (seconded by: LaFleur)  
 Vote Carried unanimously
5. 36 Crooked Lane, LLC – 36 Crooked Lane (41-330) SE48-3213  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff Will add Condition 19 requiring a new plan showing the revised limits of brush cutting. Will add Condition 20 setting the diameter of trees to be kept.  
 Discussion (6:36) **Golding** – He would also like photos of before and after.  
**Champoux** – Wants to protect any tree with a diameter over 4 inches.  
 Motion **Motion to Approve as amended.** (made by: Steinauer) (seconded by: Champoux)  
 Vote Carried unanimously
6. Polpis Harbor, LLC – 250 Polpis Road Lot 1 (26-27) SE48-3211  
 7. Polpis Harbor, LLC – 250 Polpis Road Lot 2 (26-27) SE48-3212  
 Sitting Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham  
 Documentation Draft Order of Conditions  
 Staff These two orders are the same and can be voted together.  
 Discussion (6:39) None  
 Motion **Motion to Approve as drafted for both SE48-3211 and SE48-3212.** G/L (made by: Golding) (seconded by: LaFleur)  
 Vote Carried unanimously

**F. Other Business**

1. Approval of Minutes 06/05/2019 & 06/12/2019: adopted by unanimous consent.
  2. Monitoring Report: Pocomo Neighbors – 47, 53, 55, 57, 61, 63, 67, 69 Pocomo Road SE48-2874
- Speakers Art Gasbarro, Nantucket Engineering & Survey for Pocomo Neighbors  
 Robert Shapiro, 57 Pocomo Road
- Discussion (6:41) **Gasbarro** – The sprinklers would be turned off and sand delivered to the scour area and hand shovel sand to clean up the area. There were concerns about use of the Proprietor’s Way for access. There were environmental concerns about the mulch used when knotweed area is reseeded.  
**Shapiro** – He’s representing not only himself but also some of his neighbors all who have concerns about what is happening. Submitted photos of the project area being resupplied with 30-40 tons of sand in March using heavy-duty equipment and showing damage to the bluff. There is nothing to stabilize the sand on the slope; the structure in front of the homes have vegetation in the logs above the sacrificial sand; the “hand-delivered” sand is all sacrificial. Feels sand should be deliver from the established roadway around the point. Asked for an amendment to the Order of Condition establishing Pocomo Point as the sand delivery point. This is destroying the Proprietor’s Road and bluff; we need your help. There is a project on the west side of the point where the sand is delivered through the protected property.  
**Erisman** – She walks that beach, and reports when it’s uncovered. The reason the sand is uncovered and doesn’t have an erosion control blanket is because we were worried sand wasn’t being delivered into the system. Delivering around the point means trucking all the sand from around the point to the site, dumping it into a pile, and using additional smaller equipment to spread the sand.  
**Champoux** – Homeowners who have these in front of their homes should agree that the sand will be delivered over their own property. To Ms. Erisman’s point, a bobcat would have to move sand from the pinch point to the site; that’s about 100 trips across the beach would be devastating to the beach.  
**Gasbarro** – He doesn’t see sand washing down the beach as a bad thing; it’s supposed to and isn’t causing any smothering. He’ll look again at the stormwater runoff; that might require additional swales or wattles.  
**Golding** – Asked about delivery at the portion ends of the armoring.  
**Gasbarro** – That would spread out the impact. Proprietor’s Way is a public road.  
**Bennett** – We would have to review the use of Proprietor’s Ways. The erosion we saw was directly related to a specific irrigation sprinkler head.  
**Carlson** – You can choose to take action; ask for further information on the roads; do an analysis for other access. Pocomo Road is at elevation 30 and the top of bank at elevation 12; that’s the slope of the Way. The Porto-potty is an issue among neighbors.  
**Gasbarro** – We stopped short of the property line due to concerns about refraction; he doesn’t see the sand delivery sand being made available as an adverse impact. We can look at the water runoff again; an option is a catch basin and infiltration system away from the bank.

3. Enforcement Actions

- a. SBPF – 87-105 Baxter Road, SE48-2824

Sitting  
Staff

Bennett, Erisman, Steinauer, LaFleur, Champoux, Golding, Topham

Had a report come in regarding sand delivery along Baxter Road; there is some level of debris in the sand. We went out and did an inspection of the geotubes and went through the sand delivery records. If the sand is not compatible, he will have the commission ratify the enforcement action and order the geo-tubes be removed in its entirety.

SBPF isn't pleased to share the dump spot with the coir project; they would prefer an alternate location.

He will take a sand sample and send it off for analysis.

Discussion (7:11)

**Burton Balkind** – Presented samples of the debris-filled sand being delivered. The same dump spot is used for the coir project and the SBPF near the park.

**Steinauer** – Questions trusting SBPF on their sand analysis.

4. Reports:

- a. CPC, Golding – Nothing to report.  
b. NP&EDC, Bennett – They are asking who the new ConCom rep will be.  
c. Mosquito Control Committee, Erisman – Nothing to report.

5. Commissioners Comment

- a. Champoux – There is a long-standing problem in Miacomet Pond with an Autumn Olive Tree and algae growing in the pond.

6. Administrator/Staff Reports

- a. Coastal Resiliency Committee is a new committee that will require a ConCom member.  
b. Dave LaFleur has been reappointed with Seth Engelbourg and Maureen Phillips. They will start on July 3. Thanked the Mr. Bennett and Mr. Champoux for their service.

Adjourned at 7:28 p.m. by unanimous consent.

Submitted by:

Terry L. Norton