



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Wednesday, July 3, 2019

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

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), Ernie Steinauer, David LaFleur, Joe Topham, Seth Engelbourg, and Maureen Phillips

Called to order at 5:00 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator

Attending Members: Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips

Agenda adopted by unanimous consent

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Appointment of officers:

Ashley Erisman Nominated for Chair by Ian Golding – Adopted unanimously

Ian Golding Nominated for Vice Chair by Ernie Steinauer – Adopted unanimously

C. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Mary D. Starr – 19 East Creek Road (55-60) SE48-2985 (**Cont. 07/31/19**)
2. Gregory Reyes – 19 East Creek Road (55-60) SE48-3065 (**Cont. 07/31/19**)
3. LAZ Family N.T. – 20 Waquoit Road (90-5) SE48-3131 (**Cont. 07/31/19**)
4. 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 Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips

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

Representative None

Public None

Discussion (5:01) None

Staff Requested a continuance to July 17th.

Motion Continued to July 7, 2019 by unanimous consent.

Vote N/A

5. *Richard E. Behrman Trustee – 272 Polpis Road (25-30) SE48-3209

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

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

Representative David M. Haines, Haines Hydrogeologic Consulting

Public None

Discussion (5:02) **Haines** – For replacement of a conventional septic system in failure with the new I/A system is going into a drip-system leach; to be in the same location. They have waivers for setback from the wells. Just 50 feet from the wetland boundary; it meets Title 5 if not the local regulations.

Staff Have everything needed to close.

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

Vote Carried unanimously

6. *Grant L. & Margaret C. Cambridge – 10 Medouie Creek Road (20-31.1) SE48-3216

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

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

Representative Kevin Dale, Vaughan, Dale, Hunter, and Beaudette P.C.

Public None

Discussion (5:06) **Dale** – There are two outstanding orders of conditions on this property; determined that there were two structural components that required an NOI. A portion of the retaining wall is in the 50-foot buffer to a wetland and a small portion in the 25-foot buffer and the pool fence intrudes into the 50-foot buffer. Asking the commission to approve and regularize what is existing since moving would cause adverse impacts; propose to mitigate by putting plantings in the area of the 25-foot buffer where the wall is. The closing on the sale of the property has taken place.

Staff **Erisman** – Asked for a detailed planting plan; there were trees on the 25-foot side of the wall and wants to ensure they are native plants.

Golding – Wants to see the extent of the mitigation; it should be extensive.

Dale – Asked to continue to July 31st.

- Motion Continued to July 31, 2019 by unanimous consent.
 Vote N/A
7. *A & B Realty Trust – 14 & 20 Shawkemo Road (43-2.1 & 179) SE48-____
- Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
- Discussion (5:13) **Gasbarro** – This is for mowing and management of invasive species; the wetland resource areas include: bordering vegetated wetland, Coastal bank, salt marsh, and land subject to coastal storm flowage. There will be no mechanical mowing or removal within the 25-foot buffer. It appears there is common reed mixed with phragmites; he'll have to research that more. Another aspect is to create meadows in an area that has been brush cut upland of the 25-foot buffer; we aren't proposing any wells or irrigation, so plantings have to be able to survive. Waiting also to hear from Massachusetts Natural Heritage (MNH).
Engelbourg – Asked to see a planting plan for the meadows; would like to see more specifics about monitoring regrowth of invasive species. Common reed and phragmites are the same plant. There might be a native type of phragmites on Nantucket; you will probably need a plant expert to ascertain the difference.
Golding – His research has indicated a stand of native phragmites on Polpis Road across from Saccacha Pond; it is significantly smaller than the invasive phragmites.
Gasbarro – That portion of the project might be eliminated due to the complexity of determining the plant. Clarified they would mechanically brush cut to the 25-foot buffer; inside that removal would be by hand. There is a lot of honeysuckle on the coastal bank. The chemical control would be conditioned through the order with standard monitoring protocols for application.
Erisman – Asked that all trees be protected from the brush cutting, especially within the 50-foot buffer.
Gasbarro – Much of the work would take place in the summer with seeding of the meadow lands to be in the Fall. Detailed where work will and will not take place. Explained how they first flagged the resource areas for brush cutting outside ConCom jurisdiction and how the boundaries within jurisdiction will be flagged.
Steinauer – He ran into very large honeysuckle, up to 3" in diameter. He ran into them and sawed them off then used herbicides on the stumps.
Gasbarro – Asked for a 2-week continuance.
- Staff This project is somewhat similar to the work at Waters Edge; monitoring the land management in similar phases could be included in the order of conditions.
- Motion Continued to July 17, 2019 by unanimous consent.
 Vote N/A
- B. Amended Orders of Conditions**
1. 46 Shimmo Pond Road Nominee Trust – 46 Shimmo Pond Road (43-77) SE48-3037
- Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
- Discussion (5:39) **Gasbarro** – This is for a final landscape plan for an approved residential redevelopment project. Reviewed the changes from the approved landscape plan. Recently obtained Chapter 91 license for a pre-existing dock; will be running electricity and water to the dock which will be installed in the previously disturbed pathway.
Erisman – She's concerned about the electricity, which would allow for use of radios and lights.
- Staff If the ConCom approves the electricity, it can be conditioned against lighting, which has a known impact on a resource area.
- Motion **Motion to Close and Issue with the condition that there will be no lights on the dock.** (made by: Steinauer) (seconded by: Topham)
 Vote Carried unanimously

III. PUBLIC MEETING

C. Requests for Determination of Applicability

1. Nantucket Pond Coalition – Long Pond, White Goose Cove and Massasoit Bridge (N/A-N/A)

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Robert Williams, Nantucket Pond Coalition
 Sara Bois, PhD, Linda Loring Nature Foundation
 Public None
 Discussion (5:47) **Williams** – This for proposed seeding of the peripheral areas of Long Pond that have been subject to phragmites removal. Reviewed the list of plants to be seeded.
Bois – It makes sense to do the seeding in the Fall. This Spring we noticed the lack of regrowth of native species. The list is based upon what is growing in similar areas.
Erisman – Asked if there is a square-footage of the area to be reseeded.
Bois – It will be just along the edge of the pond; looking at spot treatment.
Golding – When the invasive species removal project started, there was to be analysis of Marine life; asked how that worked out.
Williams – With the removal of the phragmites, Long Pond now has a shoreline.
Phillips – Feels the removal work was done carefully to reopen the pond to public use and the cattails are coming back, which is habitat for the red-winged blackbird. Currently the shoreline isn’t attractive and the reseeded it will help.
Steinauer – He question has been the long-term prognosis; it seems to be going in the right direction.
 Staff Suggested a way to estimate the depth of seeding.
 In 2017, the Town did a redo of invertebrate evaluation for species diversity and richness within the pond and compared it to the original study. Long Pond showed an increase in those areas, which is indicative of restoring to good health.
 An annual and monitoring reports are required part of the original project and so would be continued here.
 Recommends this be issued as a Negative 2 and Negative 3 allowing for work within the buffer zone and resource area.
 Motion **Motion to Issue as recommended.** (made by: Golding) (seconded by: LaFleur)
 Vote Carried 6-0//Engelbourg recused

2. Amanda P. Olin – 52 Meadow View Drive (56-176)

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Public None
 Discussion (1:03) **Blackwell** – This is to confirm the wetland boundaries and allow for abandonment of an existing septic and connection to the sewer with a gravity line. Explained how the septic would be abandoned.
 Staff Recommends this be issued as a Negative 3 allowing for work within the buffer zone
 Motion **Motion to Issue as recommended.** (made by: Topham) (seconded by: Phillips)
 Vote Carried unanimously

D. Minor Modifications

1. Lydia Denny Realty Trust – 123 Wauwinet Road (12-9) SE48-3134

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Staff This is for revised grading to elevation 9 over the approved tight tank and removal of the proposed addition.
 Discussion (6:06) None
 Motion **Motion to Approve.** (made by: LaFleur) (seconded by: Topham)
 Vote Carried unanimously

2. August Point, LLC – 8 Willard Street (42.4.1-55.1) SE48-3013

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Jeff Blackwell, Blackwell & Assoc.
 Staff
 Discussion (6:07) **Blackwell** – This is for approval of a pergola that was built over a deck on the south side of the structure. The resource area is land subject to coastal storm flowage. The deck foundation system doesn’t interrupt flow of flood water.
 Motion **Motion to Approve.** (made by: Golding) (seconded by: LaFleur)
 Vote Carried unanimously

E. Certificates of Compliance

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

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff The Department of Public Works has scheduled work to fix the drainage gullies; this will be back on July 17.
 Discussion (6:10) None
 Motion Continued to July 17, 2019 by unanimous consent.
 Vote N/A

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

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff This was for a septic upgrade to I/A; they have received the Certificate of Compliance from the Board of Health (BOH), so this can be issued.
 Discussion (6:11) None
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: Topham)
 Vote Carried unanimously

3. Cambridge – 10 Medouie Creek (20-31.1) SE48-2307 (**Cont. 07/31/19**)

4. Cambridge – 10 Medouie Creek (20-31.1) SE48-1810(**Cont. 07/31/19**)

5. August Point, LLC – 8 Willard Street (42.4.1-55.1) SE48-3013

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff We feel with the minor modification; this will be in compliance.
 Discussion (6:12) None
 Motion **Motion to Issue.** (made by: Steinauer) (seconded by: Engelbourg)
 Vote Carried unanimously

6. 115 Washington Street Extension, LLC – 115 Washington Street (55.1.4-39) SE48-2996

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff The structures appear to be in compliance; the inspection indicated there were no discharges.
 Discussion (6:12) **Jeff Blackwell**, Blackwell & Assoc. – The Order of Conditions was issued in 2015 with two minor modifications for landscaping. The project is now complete in conformance with the permit. Velocity Zone requirements pushed the structures way up to 2 feet above the flood level.
 Motion **Motion to Issue.** (made by: Engelbourg) (seconded by: Topham)
 Vote Carried unanimously

F. Orders of Condition

1. Richard E. Behrman Trustee – 272 Polpis Road (25-30) SE48-3209

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff The septic upgrade was previously closed out. The only condition is the requirement to meet BOH regulations.
 Discussion (6:16) None
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded by: LaFleur)
 Vote Carried unanimously

G. Other Business

1. Approval of Minutes – 06/19/19: Adopted by unanimous consent.
2. Monitoring Report - None
3. Enforcement Actions
 - a. ‘Sconset Beach Preservation Foundation

Sitting Erisman, Golding, Steinauer, LaFleur, Topham, Engelbourg, Phillips
 Staff Working on mitigation sand on the ‘Sconset Bluff. They are well aware that they might have determine what areas will need to have the contaminated sand removed. Hope to have this resolved by July 10th.
 Discussion (6:18) **Engelbourg** – Asked about the status of deliveries of this sand.
Carlson – They have stopped deliveries for the moment.
Phillips – Asked about the cause, if the source is at fault.
Carlson – We’re checking the sand source. The source they had been using provided compliant material; they would have to go through testing to ensure the sand is compliant. At the time that was approved, we used the Department of Environmental Protection (DEP) requirements for sand; we now have our own requirements.
Phillips – With older orders that don’t provide the specificity they do now, asked if there is a way to clear up those older orders to meet current requirements.
Carlson – No; the orders have passed their 3-year life; we are under maintenance. If the condition isn’t noted as on-going, the State has ruled against trying to enforce a condition that isn’t specified as on-going.

4. Appointment of Committee Representatives:
 - a. CRAC (Coastal Resiliency Advisory Committee), Golding & LaFleur both interested. LaFleur appointed by flip of coin.
 - b. CPC (Community Preservation Committee), Topham volunteered. Appointed by unanimous consent.
 - c. NP&EDC (Nantucket Planning and Economic Development Committee), Phillips volunteered. Appointed by unanimous consent.
 - d. Mosquito Control Committee, Carlson – If this committee returns, the Commission can appoint a representative at that time.
5. Commissioners Comment
 - a. Engelbourg and Phillips welcomed to the Board.
6. Administrator/Staff Reports
 - a. If there are any subjects not applicant driven that the Commissioners want to have added to the agenda, please let him know.

Adjourned at 6:36 p.m. by unanimous consent.

Submitted by:
Terry L. Norton