



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Thursday, November 18, 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,
Seth Engelbourg, Maureen Phillips, Mark Beale, and Linda Williams

Called to order at 5:01 p.m. by Ms. Erisman

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

Attending Members: Erisman, Engelbourg, Beale, Williams

Absent Members: Golding, LaFleur, Phillips

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

1. **Beale** – Asked if there is an end to extensions; 88 and 90 Pocomo have been on a long time and it’s not fair to abutters.

Carlson – We have required renotification to abutters and readvertisement in the paper for projects that have been continued a long time.

2. **Turcotte** – Regarding the new material dumped onto the ‘Sconset Beach Preservation Fund (SBPF) geo-tubes, a member of the public brought a sample to us; a preliminary sieve test showed it to be 54% fines. We will collect another sample and bring it to the commission at the next meeting.

Carlson – Staff will get out there.

II. PUBLIC HEARING

A. Notice of Intent

1. Lower Pocomo Nominee Trust – 88 Pocomo Road (15-42) SE48-3432 (**Cont. to 12/2**)

2. Pocomo Point Realty Trust – 90 Pocomo Road (15-43) SE48-3438 (**Cont. to 12/2**)

3. *NISDA – 55 Wauwinet Road (14-23) SE48-3441

Sitting: Erisman, Engelbourg, Beale, Williams

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

Representative: Brian Madden, LEC Environmental

Don Bracken, Bracken Engineering

Public: None

Discussion (5:07) **Madden** – Massachusetts Natural Heritage (MNH) requested a botanical survey; project revisions reflect the results of that survey. Reviewed the project. We’ve depicted two grass plain areas: one new and one maintained. No waivers are required.

Bracken – Explained the drain report.

Staff: Have everything needed to close.

Motion: **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote: Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

4. Gilbert – 16 D Street (60.2.1-2) SE48-3467

Sitting: Erisman, Engelbourg, Beale, Williams

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

Representative: Don Bracken, Bracken Engineering

Public: None

Discussion (5:12) **Bracken** – We’ve submitted revised plans: reduce the deck size away from the coastal bank; remove the 2nd-floor deck; relocated air conditioning (A/C) and the outdoor shower; show where the helical piles will be located; and included an engineering plan.

Staff: Have everything needed to close.

Motion: **Motion to Close.** (made by: Williams) (seconded)

Roll-call Vote: Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

5. Kane – 12 Pond Road (56-295) SE48-3473
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Brian Madden, LEC Environmental
Joe Topham, Topham Design
- Public R.J. Turcotte, Nantucket Land Council
- Discussion (5:15) **Madden** – Reviewed the modifications made per previous comments: increased wetland setback, expanded revegetation/restoration area, propose removing the 45sf shed, and deck within the 50’ buffer reduced. The addition will be on a crawlspace clear of ground water and the connector elevated on sonotubes. Existing structure has a full basement; they’ve never had water issues. It is a small, perched wetland. This provides a net improvement over existing situations.
- Williams** – She understands the existing house hasn’t caused any adverse effect on the wetlands. She thinks the wetlands have changed since the house was built; moving the addition would cause tremendous disturbance for a new foundation.
- Erisman** – She’s still uncomfortable with a new structure being built within the 50’ buffer; that’s a clear line in our regulations.
- Beale** – Agrees with Ms. Erisman; they have the opportunity to move the addition to the north and expand toward the garage. Part of the problem for him is new construction within the 50’ buffer.
- Engelbourg** – He agrees. He feels an alternative analysis hasn’t been pursued for this site and doubts the long-term net benefit. He’s confused about the purpose of the proposed deck: is it access to the house or to provide access to the property at the rear; if it’s for access, the door could be moved to the side.
- Turcotte** – The commission should stick to the definition of expanding into the 50’ buffer.
- Madden** – He doesn’t believe there’s an entrance on the wrap-around section; it’s on the back of the connector. This is an opportunity to move the deck away from the resource area; the alternative is to leave it as is. Asked to continue.
- Staff None
- Motion Continued to December 2nd.
- Roll-call Vote N/A
6. 8 Walsh, LLC – 8 Walsh Street (42.4.1-83) SE48-3474 (Cont. to 12/2)
7. ACK Sandy, LLC – 6 Sandy Drive (29-76) SE48-3479
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Brian Madden, LEC Environmental
- Public None
- Discussion (5:29) **Madden** – We are proposing to relocate the patio outside the 25’ buffer, as requested. The proposed work within the 50’ buffer overlaps with the porch roof overhang of the existing structure. The goal is to maximize separation while complying with zoning setback requirements.
- Beale** – The problem is again new construction within the 50’ buffer; the house could move farther north.
- Staff Have everything needed to close.
- Motion **Motion to Close.** (made by: Williams) (seconded)
- Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
8. 11 Woodbury Lane Realty Trust – 11 Woodbury Lane (41-550) SE48-3481
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Brian Madden, LEC Environmental
Michelle Hunton, Rubin and Rudman LLP
- Public None
- Discussion (5:34) **Madden** – This is the reconstruction of the house that exploded; under pre-existing conditions, 19sf of the garage on concrete were within the 50’ buffer; that will be reduced to 6sf. A 2012 application for invasive species management put the whole project out of the 50’ buffer; also, restoration is being proposed within the 25’ buffer.
- Hunton** – Asked when the amendments were added to the regulations adding the 50’ no-build and 25’ no disturb zones; we think grandfathering might apply here if they were added post 1992. The house was destroyed by no one’s fault and we are just rebuilding. The regulations indicate they were amended is 2008 and 2013. Section 103F does apply.
- Erisman** – Suggested reaching out to Town Counsel regarding the amendments and grandfathering.
- Engelbourg** – Asked for specificity on grandfathering a pre-existing use in the regulations; it talks about use and normal maintenance. This is essentially a raze and redevelopment even though the razing was unintentional. We need information on the wetland boundaries and delineation set by soil tests; if that information shows it will be outside the 50’ buffer, there are no concerns.
- Madden** – We now have the ability to do soil tests and will meet with Staff at the site.
- Erisman** – Asked for a plan clearly showing the proposed mitigation plantings. You’re talking about reestablishing the 25’ but the lawn weaves in and out.
- Beale** – Asked about a structure shown in the back that is within the 50’ buffer.

Madden – That was the original garage-apartment.

Williams – Asked if the garage-apartment would be reconstructed.

Madden – That’s moving south and adjoining the main house.

Engelbourg – Feels the extension of the structure is beyond the original footprint, so grandfathering doesn’t apply here.

Madden – If the reconstruction occurred in the exact same footprint, asked if the commission would grandfather that.

Erisman – That would be clearer for her.

Engelbourg – IN his opinion, if the house were built on the exact same footprint, he’d consider that maintenance. However, expanding the house and connecting the garage is no long maintenance; that’s a rebuild.

Madden – He’ll review the wetland boundary and do wetland soil testing. Asked for a continuance.

Staff In our files, we have 11 or 12 versions of regs adopted over time; we’re trying to sort that out.

He will research any similar rebuild cases; also, he’ll reach out to Mass DEP for their opinion.

He will put Ms. Erisman’s question to Town Counsel.

Motion Continued to December 2nd.

Roll-call Vote N/A

9. Land Bank – 1, 3, 5, 7, 9, 11, 13, 15, 15A Miacomet Road (67-49,345,346,679,680,681,682) SE48-3480 **(Cont. to 12/2)**

10. *Spencer – 3 Fulling Mill Road (27-27) SE48-3483

Sitting Erisman, Engelbourg, Beale, Williams

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:52) **Madden** – This is to open a viewshed by relocating cedars and planting 4 new cedars. There’s 25 linear feet of fox grape to be eliminated from the coastal bank buffer zone; it will be cut at the stem close to the ground.

Engelbourg – He’s uncomfortable with this; it’s vista pruning. He doesn’t see how a waiver request can be justified to remove stable trees that hold the bank in place. He’s okay with pruning the fox grape as needed. It is obviously choking out one black pine, but the rest looks okay. He doesn’t see how either is in the best interest of the wetlands.

Erisman – Agrees; doesn’t want to see a native plant removed. This sets a precedent for opening up water views to the detriment of resource areas.

Madden – We’re looking to open up a limited area and there is plenty space to add more cedars in the buffer zone.

Engelbourg – His comment isn’t related to the cedars; his concern is that the amount of disturbance required to do that doesn’t work with our interests. There are other possible interventions to get the view without having to disturb the bank or 25’ buffer.

Madden – Asked if the commission would entertain some vista pruning while keeping cedars in place and adding new cedars.

Erisman – No, vista pruning doesn’t benefit our resource areas.

Engelbourg – He shares Ms. Erisman’s concerns. Vista pruning in the long term could be more detrimental to the 25’ buffer. He understands the clients’ aim but there is no scenario in which vista pruning or removing the trees is a benefit to the areas we are supposed to protect.

Carlson – Burton Balkind said there is an osprey nest near this and is concerned about the impact of removing trees on the osprey.

Madden – Asked for a continuance.

Staff NOne

Motion Continued to December 2nd.

Roll-call Vote N/A

11. *Dacey – 14 Plover Lane (12-53) SE48-3484

Sitting Erisman, Engelbourg, Beale, Williams

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (6:04) **Madden** – The proposed house is outside the 50’ buffer; the dry-laid patio is off the rear and will require some grading. There is an existing well; the septic is being replaced by a new I/A system. No waivers are required.

There is an existing pervious driveway coming off Plover.

Have everything needed to close.

Motion **Motion to Close.** (made by: Beale) (seconded)

Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

12. *NIR Retail, LLC – 4 Harbor Square (42.2.4-1) SE48- **(Cont. to 12/2)**

13. *Tristrams Group – 41 Starbuck Road (59.3-48) SE48-3485
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Ryan Maxwell, Bracken Engineering
 Public None
 Discussion (6:08) **Maxwell** – This is for a septic upgrade within 100’ of a coastal bank; all work is outside the 25’ buffer.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
14. *Land Bank – 19 Wauwinet Road (20-35) SE48-3482
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None
 Discussion (6:09) **Madden** – There is an Amended Order of Conditions for 23&25 Wauwinet Road connected with this. The “Hepper Barn” will be moved back to its original historic location at 23&25 Wauwinet Road. Eat Fire Springs flows through both properties. There will be no disturbance to an existing willow tree and erosion control will be place upland of the stream. Plates will be installed as necessary to preserve the stream bank and culverts. The vacated footprint will then be replanted with native species.
Engelbourg – Regarding the move, confirmed invasive species will be cut and removed when space is made to move the barn. We have to condition proper disposal of the species being removed. Doesn’t know if there will be anything more specific about the movement plan.
Madden – We can coordinate with staff in advance; steel plates will be used to protect the culvert.
 Staff Have everything needed to close.
 Motion **Motion to Close the public hearing on SE48-3482 and the 23&25 Wauwinet Road Amended Order of Conditions.** (made by: Beale) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
- B. Amended Order of Conditions**
 1. Scannell – 119R Eel Point Road (33-17.1) SE48-3378 (Cont. to 12/2)
 2. NISDA – 23 & 25 Wauwinet Road (20-36 & 80) SE48-3279
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports, correspondence, draft OofC SE48-3482.
 Representative Brian Madden, LEC Environmental
 Public Public Hearing closed under 19 Wauwinet Road.
 Discussion (6:17) **Engelbourg** – Wants to discuss possible conditions.
 Staff Suggested conditioning the two properties the same; shared the draft order for 19 Wauwinet Road. He’ll add Condition 19 and Condition 20 regarding removal of invasive species material and Condition 21 requiring only native species for restoration areas.
 Motion **Motion to Issue the Amended Order of Conditions as amended.** (made by: Engel) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
3. Dudley, LLC – 15 Aurora Way (56-447) SE48-2993
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Ryan Maxwell, Bracken Engineering
 Public None
 Discussion (6:23) **Maxwell** – Hot tub removed, house reduced and shifted; now asking for a pool, which will meet 2’ groundwater separation. All work is outside the 50’ buffer.
Erisman – Given the pool’s location, we need hefty conditions monitoring water levels and to ensure all construction material, debris, and water is to be removed from site.
Beale – Doesn’t think the large pump trucks can reach the pool to pump out the pool prior to winter. Wants a report from a pool maintenance company assuring they can pump the water to a truck.
Engelbourg – Agrees with Mr. Beale.
Williams – She’d prefer to condition this to get it off the table and allow Mr. Carlson to okay the plan.
 Staff Added Conditions 22 addressing drainage of the pool, 23 prohibiting chemical treatment in the winter, 24 stopping chemical treatment prior to pumping, 25 addressing lighting, 26 requiring contact information about the maintenance company, and 27 requiring a drainage plan to be approved by Staff.
 Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

4. ACK007 Properties – 46 Walsh Street (29-101.1) SE48-3346
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Art Gasbarro, Nantucket Engineering & Survey
- Public None
- Discussion (6:32) **Gasbarro** – For addition of a 2nd-floor deck within land subject to coastal storm flowage.
- Staff Recommend issue.
- Motion **Motion to Issue.** (made by: Williams) (seconded)
- Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
5. Abbott and Hamre – 8 Hulbert Avenue (29.2.3-7.2) SE48-3272
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Paul Santos, Nantucket Surveyors
- Public None
- Discussion (6:34) **Santos** – This is to extend an existing roof line over an open deck; this is within land subject to coastal storm flowage and the buffer to a wetland. The original order does have waivers.
- Engelbourg** – Can’t make up his mind if this is new construction or not; this is like putting two roofs on an existing structure.
- Beale** – If the deck weren’t there, asked if this would be permissible. He’s trying to justify this new construction within the 50’ buffer.
- Santos** – If there were no deck, it wouldn’t be allowed.
- Engelbourg** – This meets the technical definition of an extension within the 50’ buffer and we should require a waiver; however, it isn’t detrimental since it’s all within the existing footprint.
- Williams** – Agrees with Mr. Engelbourg.
- Erisman** – It is over existing structure and not creating any new structural area.
- Staff Staff agrees with Mr. Engelbourg’s assessment. Recommend issue.
- Motion Motion to Issue. (made by: Williams) (seconded)
- Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
6. Hedges, LLC – 10 Basset Road (26-39) SE48-3374
- Sitting Erisman, Engelbourg, Beale, Williams
- Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
- Representative Art Gasbarro, Nantucket Engineering & Survey
Lindsey Congleton, Atlantic Landscaping
- Public None
- Discussion (6:44) **Gasbarro** – This is in response to an enforcement order associated with a retaining wall and pool; the unpermitted work was a concrete wall instead of timber and the addition of the returns. Explained how the corrections would be made a such that the walls don’t exceed 30” in height.
- Erisman** – Would like to know how this got so far off from what was approved, especially the debris.
- Congleton** – He made wrongful assumptions regarding working outside the resource area and the change to concrete block. We were intending to remove the debris behind the wall when all work was stopped.
- Engelbourg** – He’s not comfortable with the returns staying in place; he’d prefer those sections of the wall be removed and the bank retained with plantings.
- Erisman** – Agrees with Mr. Engelbourg that beyond the material switch, the footprint should match the original permit.
- Gasbarro** – If we had come to the commission with the returns, he thinks they would have been approved; they are outside the 50’ buffer and don’t face the wetland resource area. He doesn’t see how they negatively impact the protected interests. Explained how the terracing would be accomplished; in terms of drainage, he thinks the walls help keep water from flowing onto abutting properties.
- Congleton** – Agrees the returns help keep water on this property.
- Engelbourg** – He tends to agree but wants additional drainage and plantings on the back side of the walls to prevent pooling at the corners of the lot.
- Erisman** – When the wall went in we had various concerns from neighbors.
- Gasbarro** – We could easily provide a revised plan showing drainage at the corners.
- Erisman** – Confirmed the Order of Conditions specified native plantings below the 50.
- Engelbourg** – Asked about revegetation of the disturbed area at the end of the driveway. If work was within the 25’ buffer, we need a waiver.
- Gasbarro** – Willing to accept a condition requiring a native seed mix
- Staff Unless there are outstanding issues or questions, recommends issuing.
Added to Condition 24 requiring the drainage plan and Condition 25 requiring native species within the 50’ and Condition 26 requiring native species in the disturbed area.
Instead of granting a waiver, it makes more sense to order the area restored under the enforcement order; it requires A subsequent motion.
- Motion **Motion to Issue as amended.** (made by: Engelbourg) (seconded)
- Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

Motion **Motion to require the disturbed area be replanted.** (made by: Engelbourg) (seconded)
Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

III. PUBLIC MEETING

C. Requests for Determination of Applicability

1. Fifth Door, LLC – 10 Medouie Creek (20-31.1)

Sitting Erisman, Engelbourg, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative Ben Champoux, Champoux Landscaping
Public None
Discussion (7:10) **Champoux** – The proposal is to install a raised spa at the east end of the pool and install a fire pit closer to the house; both are outside the 50’ buffer within existing lawn. Access would be from a 2-track dirt road to the south.

Engelbourg – Asked if the plants at the access point will be replanted or left open.
Champoux – Either new plants or the same plants will go back in.
Erisman – Asked why this is an RDA and not a NOI, given you have to go inside the 50’ to get access.
Champoux – There is no permanent structure and disturbance.

Staff If the 2-track road didn’t exist, we would have asked for a NOI.
Recommend issuing as a Negative 3 for work without NOI.

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

Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

2. Cherner, Trustee – 196 Hummock Pond Road (65-30)

Sitting Erisman, Engelbourg, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative David M. Haines, Haines Hydrogeologic Consulting
Public None
Discussion (7:19) **Haines** – This is to verify a wetland boundary on this property: there’s an isolated vegetated wetlands and shrub swamp and an bordering vegetated wetlands to the north. No work is proposed.

Engelbourg – He’s interested that the wetlands are so close without a hydraulic connection.
Haines – The GIS map shows a hydraulic connection, but he couldn’t find evidence in the field.

Staff We have checked the site; he agrees with the delineation as shown on the plan. If the connection is there, it isn’t close enough to the surface to impact the soil and plants.
Recommend issuing as a Positive 2A confirming the resource area boundaries.

Motion **Motion to Issue as recommended.** (made by: Engelbourg) (seconded)

Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

3. Anglund Trustees – 55 Nobadeer Avenue (88-54)

Sitting Erisman, Engelbourg, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative Paul Santos, Nantucket Surveyors
Public None
Discussion (7:00) **Santos** – This is to confirm boundaries to the top of coastal bank, coastal dune, beach, and the ocean. The top of the coastal bank was initially identified in 2006 and redelineated this year with no change; in our opinion, it is a stable bank. No work is proposed at this time

Staff We reviewed the site; he confirms Mr. Santos’ assessment about the coastal bank.
Recommend issuing as a Positive 2A

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

Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

D. Minor Modifications

1. Net Zero LLC – 99 Low Beach Road (75-32.1) SE48-3020

Sitting Erisman, Engelbourg, Beale, Williams
Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
Representative Mark Rits, Site Design Engineering
Public None
Discussion (7:29) **Rits** – We moved the driveway out of the buffer and are now looking to construct a tennis court and solar array just inside the 100’ buffer on the far side of the driveway.

Staff Looking to reconfigure the site and relocate structures farther from the wetland areas and increasing the setback with only grading within the 100’.
Recommend issue

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

Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

2. Wallace ACK LLC – 45 Hulbert Ave (29-16) SE48-3331
 - Sitting Erisman, Engelbourg, Beale
 - Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 - Representative None
 - Public None
 - Discussion (7:34) **Williams** – She has to recuse
Erisman – With Ms. Williams recusing, we don’t have a quorum.
Blackwell – Okay with this continuing.
 - Staff None
 - Motion Continued to Dec. 2.
 - Roll-call Vote N/A
 3. Akseizer – 14 Moors End Lane (43-216) SE48-3461
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 - Representative Art Gasbarro, Nantucket Engineering & Survey
 - Public None
 - Discussion (7:36) **Gasbarro** – This is for addition of a 1’ bumpout and to turn a porch into interior space; 70’ from the resource area.
 - Staff Recommend issue.
 - Motion **Motion to Issue the Minor Modification.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
- E. Certificates of Compliance**
1. Cunningham – 105 Eel Point Road (32-5) SE48-0257
 2. Cunningham – 103 Eel Point Road (32-6) SE48-2424
 - Sitting Erisman, Beale, Williams
 - Staff None
 - Discussion (7:38) **Engelbourg** – he has to recuse on these.
 - Motion Continued to Dec. 2.
 - Roll-call Vote N/A
 3. Royal Mile, LLC – 14 Celtic Drive (67-658) SE48-3286
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Staff Completed in compliance.
 - Discussion (7:38) None
 - Motion **Motion to Issue the Certificate of Compliance.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
 4. Madaket Realty, Inc. – 39-41 Starbuck Road (60-35; 59.3-47 & 48) SE48-2304
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Staff The order expired; looking to invalidate
 - Discussion (7:39) None
 - Motion **Motion to invalidate.** (made by: Wililams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
 5. Safe Harbor Nominee Trust – 254 & 256 Polpis Road (25-25) SE48-1251
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Staff Work is complete with Board of Health (BOH) sign off and in compliance.
 - Discussion (7:40) None
 - Motion **Motion to Issue.** (made by: Engelbourg) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
 6. Raymond – 5 Cornish Street (42.4.1-95) SE48-2471
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Staff Work complete and in compliance
 - Discussion (7:41) None
 - Motion **Motion to Issue.** (made by: Beale) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
 7. Raymond – 5 Cornish Street (42.4.1-95) SE48-3335
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Staff Work complete and in compliance
 - Discussion (7:41) None
 - Motion **Motion to Issue.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

8. O'Connor and Farrell – 86 Hummock Pond Road (56-117) SE48-1975 and NAN-079
 Sitting Erisman, Engelbourg, Beale, Williams
 Staff This was superseded by SE48-2966; it can be issued in compliance with SE48-2966
 Discussion (7:42) None
 Motion **Motion to Issue.** (made by: Beale) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
9. O'Connor and Farrell – 86 Hummock Pond Road (56-117) SE48-2966
 Sitting Erisman, Engelbourg, Beale, Williams
 Staff Recommend issue.
 Discussion (7:44) None
 Motion **Motion to Issue.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
10. Dolphin Court, LLC – 3 Dolphin Court (42.4.1-38, 1, 38, 2, & 37) SE48-2055
 Sitting Erisman, Engelbourg, Beale, Williams
 Staff Construction within flood zone; in compliance.
 Discussion (7:44) None
 Motion **Motion to Issue.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
11. Harborside Partners, LLC – Easton Street (42.1.4-13 & 12.2) SE48-1688
 Sitting Erisman, Engelbourg, Beale, Williams
 Staff Work never done and permit expired.
 Discussion (7:45) None
 Motion **Motion to Invalidate the Order.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

F. Orders of Condition

1. NISDA – 55 Wauwinet Road (14-23) SSE48-3441
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Draft Order of Conditions
 Staff Including photo monitoring requirement.
 Discussion (7:45) None.
 Motion **Motion to Issue as drafted.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
2. Gilbert – 16 D Street (60.2.1-2) SE48-3467
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Draft Order of Conditions
 Staff In response to tonight's discussion, included conditions for soil testing and exterior lighting.
 Discussion (7:47) **Erisman** – Under additional findings, it says “flat marsh” instead of “salt marsh”.
Williams – Use of fertilizer is getting out of control; asked what ConCom can do about it.
Erisman – There aren't enough people for review of all properties; we have adopted best management practices under our regulations requiring soil testing but there is room for improvement.
Carlson – In a known ConCom areas of jurisdiction, he would write a ticket under a BOH regulations; he can't recall the regulation number at the maximum fee and add the maximum fee under the Wetlands Protection Act. With an open Order of Conditions, he has the right to be there. We have a long way to go in fertilizer management.
Beale – They are building within the 25' buffer.
Erisman – The deck is existing; they are adding a roof above it.
 Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye
3. ACK Sandy, LLC – 6 Sandy Drive (29-76) SE48-3479
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation None
 Staff He had not drafted an order for this. Asked if they are looking for a positive order on it.
 Discussion (7:56) None
 Motion Continued to Dec. 2
 Roll-call Vote N/A
4. Land Bank – 19 Wauwinet Road (20-35) SE48-3482
 Sitting Erisman, Engelbourg, Beale, Williams
 Documentation Draft Order of Conditions
 Staff We reviewed this with Amended Order of Conditions 23 & 25 Wauwinet Road. Reviewed those discussed conditions.
 Discussion (7:57) None
 Motion **Motion to Approve as amended.** (made by: Williams) (seconded)
 Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

- 5. Dacey – 14 Plover Lane (12-53) SE48-484
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Documentation Draft Order of Conditions
 - Staff This was straightforward so not a lot of conditions.
 - Discussion (7:58) None
 - Motion **Motion to Issue as drafted.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

- 6. Tristrams Group – 41 Starbuck Road (59.3-48) SE48-3485
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Documentation Draft Order of Conditions
 - Staff This requires waivers because within 100’ buffers. He had no conditions. Recommend granting the waiver under net benefit.
 - Discussion (7:59) None
 - Motion **Motion to Issue as amended including a net-benefit waiver.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

G. Extension Requests

- 1. Grell – 21 Field Avenue (80-41) SE48-2999
 - Sitting Erisman, Engelbourg, Beale, Williams
 - Documentation SE48-2999
 - Speakers Requesting three 1-year extensions to complete the project.
 - Discussion (8:01) None
 - Motion **Motion to Issue the three 1-year extensions.** (made by: Williams) (seconded)
 - Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

H. Other Business

- 1. Approval of Minutes 10/28/2021:
 - Motion (8:03) **Motion to Approve as drafted.** (made by: Williams) (seconded)
 - Roll-call Vote Carried //Beale, Engelbourg, Erisman, and Williams-aye
- 2. Monitoring Reports
- 3. Reports:
 - a. CRAC, Erisman
 - b. CPC, Williams
- 4. Commissioners Comment
 - a. Engelbourg – He’s concerned about potential non-attendance and asked if it could be remediated.
Erisman – She had Mr. Carlson have been having conversations so they will continue to encourage commissioners to notify Staff when they won’t be in attendance.
 - b. Erisman – Wants to keep enforcements on the radar so commissioners are getting updated.
Carlson – He will put something together for the next meeting.
 - c. Beale – Asked if there is an emergency order to remove a house along the South Shore.
Carlson – Asked that Mr. Beale send him more information. ConCom can only issue emergency permits in a case where another Town agency has declared it an emergency; that’s why they start at other departments. If it’s a true emergency, he can authorize that work go forward.
 - d. Erisman – Doesn’t believe we will be going into Executive Session; we haven’t gotten responses from attorneys.
Carlson – We haven’t been issued any paper yet.
 - e. Erisman - It has been requested she meet with a small group of Town members: Libby Gibson, Matt Fee, Ken Beaugrand, and Vince Murphy; it’s in reference to NOIs and planning for Coastal Resiliency.
Carlson – Before the Town comes in with applications, it might be better for them to discuss potential issues.
 - f. Engelbourg – Asked that the Executive Session remain on the agenda until it happens. We need more information and more ConCom members to be in attendance.
- 5. Administrator/Staff Reports
 - a. He sent out the draft schedule for 2022; he tried to include regulation workshop meetings. Probably staying on Thursdays for next year.

I. Adjournment

- Motion **Motion to Adjourn at 8:24 pm.** (made by: Williams) (seconded)
- Roll-call Vote Carried 4-0//Beale, Engelbourg, Erisman, and Williams-aye

Submitted by:
Terry L. Norton