



# CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Wednesday, November 30, 2016 4:00 P.M.  
4 Fairgrounds Road, Training Room

**Commissioners:** Andrew Bennett(Chair), Ashley Erisman(Vice Chair), Ernie Steinauer, David LaFleur,  
Ben Champoux, Ian Golding, Joe Topham

Called to order at 4:01 p.m.

Staff in attendance: Jeff Carlson, Natural Resources Coordinator; Terry Norton, Town Minutes Taker  
Attending Members: Bennett, Erisman, Steinauer, LaFleur, Topham  
Absent Members: Champoux, Golding  
Late Arrivals: None  
Earlier Departure: None  
Agenda adopted by unanimous consent

\*Matter has not been heard

## **I. PUBLIC MEETING**

**A. Public Comment** – None

## **II. PUBLIC HEARING**

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

1. Edwin Snider RT – 1 Brock’s Court (42.3.4-84) SE48-2834 (**Cont 01/04/2017**)
2. Sunset House, LLC – 15 Hallowell Lane (30-10) SE48-2924(**Cont 12/14/2016**)
3. Burke – 37 Gardener Road (43-85) SE48- 2930

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham

Recused None

Documentation None

Representative None

Public None

Discussion (4:01) None

Staff This has a withdrawal request that needs to be accepted.

Motion **Motion to Accept the Withdrawal.** (made by: Steinauer) (seconded by: LaFleur)

Vote Carried unanimously

4. Haulover, LLC – 165 Wauwinet Road (7-1.1) SE48-2932

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Don Bracken**, Bracken Engineering, Inc. – Reviewed the project. Received letter of no-take with conditions from Massachusetts Natural Heritage: no work in April, removal of stairway to be by April 1.

Public None

Discussion (4:02) None

Staff Have everything needed to close.

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

Vote Carried unanimously

5. 62 Walsh Street, LLC – 62 Walsh Street (29-85) SE48-2933

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Paul Santos**, Nantucket Surveyors – Resource land subject to coastal storm flowage. Was held for DEP number. Proposed work is to add a garage on slab with flood vents, new shell driveway on a portion of street to be acquired through yard sale program, add raised spa on existing patio. Have dewatering because going down just enough to meet building code and expect to need dewatering.

Public None

Discussion (4:05) **Erisman** – Concerned about what would be stored in the garage in the event of flooding and herbicides etc being swept up in flood waters.

Staff Have everything needed to close.

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

Vote Carried unanimously

6. Nantucket Yacht Club – 4 South Beach Street (42.4.2-59) SE48-2931

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Leo Asadoorian**, Blackwell & Assoc. – Reviewed the proposed work. There was concern about the amount of nitrogen in the roof runoff; it is so deminimus it is hard to measure. Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP  
 Public **Cormac Collier**, Executive Director Nantucket Land Council – He did mention looking at the site specific issues, the nitrogen would be small; that isn’t the issue, it’s the cumulative effect. Asking for minor vegetative improvements that might mitigate some of the rain water. Noted this board can write a letter to the Planning Board requiring vegetative mitigation of the roof runoff under MGL Chap 40.  
 Discussion (4:10) **Erisman** – The roofing material is an important component of this and feels it is important to know in regards to what chemicals might be getting into the harbor. This run off would be added to a system that is already overwhelmed. Asked about on-site mitigation. Feels she can’t support the project without some way to manage that run off.  
**Asadoorian** – He doesn’t know the roofing material but HDC will allow only asphalt, cedar, and slate. Mitigation would involve a pump; looked at the volume of nitrate in the rainwater. Noted that all roofs downtown are running off into the harbor eventually.  
**Bennett** – The NYC has asphalt roofing; cedar roofs are fire treated.  
**Steinauer** – Asked about the amount of lawn area; if the NYC agrees not to fertilize it at all, that would offset the amount of nitrogen from the roof runoff.  
**Asadoorian** – Noted there is very little lawn area; but could agree to no fertilizer use.  
 Discussion about the amount of nitrogen landing on the harbor during rain versus run off.  
**Bennett** – Clay tennis courts have a drainage system; wonders if that system could handle some of the roof run off from this building.  
**Reade** – The Planning Board is concerned with drainage issues and always has the plans reviewed by Ed Pesce the engineer.  
**Bennett** – Asked if the mitigation system could be placed on the abutting NYC property.  
**Steinauer** – He thinks the comments might be worth a try, but feels the Planning Board tends to do things its own way.  
**Collier** – He thinks the letter to the Planning Board is an excellent idea particularly in light of the development proposed for downtown. The Planning Board engineer looks at stormwater capacity and flood water; it is up to this board to bring nitrogen to their attention.  
 Staff This is a valuable discussion about nitrogen roof runoff but the board is losing track of the resource area, land subject to coastal storm flowage. Our regulations don’t correctly address this situation; if a property is tying into a municipal system, it should have to install a pre-treatment system. The suggestion to send comments to the Planning Board to have on-site storm-water system pre-treatment is a good idea. Before closing the public hearing, if the board feels this is something to address to the Planning Board, that should discuss that during the public hearing so the applicant can respond.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Steinauer) (seconded by: LaFleur)  
 Vote Carried unanimously

7. \*23 Commercial Wharf JA, LLC – 23 Commercial Wharf (42.2.4-5) SE48-2935

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Recused None  
 Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.  
 Representative **Don Bracken**, Bracken Engineering, Inc. – Under a previous Order of Condition, no work was performed. This project is to maintain as a single-family dwelling but relocating it to comply with zoning; that moves it away from the resource areas: bulkhead and land under the ocean. The new foundation is to be piers; he doesn’t have details as to if they will be wood or concrete. Plan to maintain use of and rebuild a wood platform over the existing bulkhead which was damaged in a storm; the platform does have a license. Propose a single parking area of cobblestone. Including drainage under the rear deck in form of a filtration system. There is an existing 4X8 floating pier. The property is in the Velocity Flood Zone at elevation 11; the existing building sits on blocks, rocks, and wood posts. Proposed construction does not need to meet flood zone requirements and they will be applying to the state for that variance.  
 Public Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP, for abutters the Barney Family and Corey Family  
 Discussion (4:36) **Bennett** – Asked if there is eel grass under the bulkhead and dock.  
**Topham** – Noted that when he helped build the Barneys deck and the piles were installed, a lot of gas and oil sediment came up; they got out booms to contain it.  
**Bracken** – That wasn’t brought up. Most materials will have to be removed from the site.  
**Reade** – He didn’t find a waiver request in the file and this project should have a waiver as all work would be within 50 feet of the resource areas. Asked for the platform wasn’t lost more than five years to ensure it isn’t a question of being abandoned. Mr. Barney is concerned about the floating dock being moved closer to his property; it is not a grandfathered structure and isn’t in the license. It was installed by the former owner

10-12 years ago; it has broken loose and caused damage on a number of occasions. A number of other related waterway issues and issues with the Harbor Overlay Plan Zoning District; there is additional living space and the structure moving

**Bracken** – The waiver has been requested. Any zoning related issues will be addressed at the Zoning Board of Appeals hearing scheduled for December 8. Think the project is an improvement as the building is being pulled away from the bulkhead and the building will be off the ground. The platform doesn't have a Chapter 91 license but it has been there and approved on the last Order of Conditions; still have to complete the Chapter 91 process.

**Erisman** – Asked if there would still be roofing over the space that the house is vacating.

**Bracken** – Yes. Most of the run-off water is maintained on the property; will be trying to get gutters approved; explained how the run-off would be handled. There is an 18% increase in ground cover with the steps and porch; it is still within what zoning allows.

**Erisman** – Expressed concern about the establishment of new grass and use of irrigation for a new lawn.

**Bracken** – It is showing as new lawn. Right now there is no proposed irrigation. The soil borings were done at the base of the wall of the bulkhead to ascertain if there was any fill.

Staff Did look at eel grass in that location; there is none.

The platform was present in 2012 but disappeared before 2013; it is grandfathered and not abandoned Have everything needed to close.

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

Vote Carried unanimously

8. \*Holly Farm Realty Trust – 290 Polpis Road (25-3) SE48-2936

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Don Bracken**, Bracken Engineering, Inc. – The Board of Health (BOH) has issued a letter requiring an upgrade to the septic system, to an I/A, drip-absorption system. It is outside the 100-foot buffers to bordering vegetated wetlands and isolated wetlands. All work is within previously disturbed area with silt fencing.

Public None

Discussion (4:55) **Erisman** – Asked if there is a way to ensure the pipes don't leak.

**Bracken** – The system is alarmed; if the pipe breaks, they will know.

**Steinauer** – In the past, this board has required sleeving for within the 25-foot buffer; this is all outside.

Have everything needed to close.

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

Vote Carried unanimously

9. \*Nantucket Island Resorts – 50 Easton Street (42.4.1-23) SE48-2934

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham

Recused None

Documentation Site plans, topographical maps, photos, MNH sign off letter, departmental reports, and correspondence.

Representative **Kathryn Barnicle**, Senior Wetland Scientist, AECOM – This is for maintenance dredging at White Elephant; did this in 2002 and 2008. There is some sand accretion from the NNE blocking some of the finger-pier slips. Updated all the surveys; found only small combing of eel grass within 100 feet of the bulkhead. The 2008 Chapter 91 permit is still valid; applied for water quality certification and that public notice was in the paper. Have a letter from Marine Fisheries confirming the time of year restrictions for winter flounder; all dredging has to be done by January 15 and hope to start January 1, 2017. The last time they dredged, they dewatered to Children's Beach and left some material for nourishment; there is no more room there. Hoping to work out a location for it; asked that it be conditioned.

Public None

Discussion (5:01) **Erisman** – Sounds like they are dredging a small triangular area, but that isn't clear on the plan.

**Barnicle** – Want to memorialize continued maintenance dredging within the proposed footprint. Will use best management practices in handling water and sand.

**Steinauer** – In the 29 square meter plot tested, about 51 square feet out of almost 2800 square feet, they found one quahog which adds up to 55 quahogs in the entire area. It might be worthwhile to do a chemical analysis of any silt drawn out with the sand.

**Barnicle** – the State doesn't require to test the silt for that because there is such a small percentage. They have to do due diligence as part of the certification; and have to record any spills or outwash from storm events. They will dewater on a barge and take the barge to Steamship Wharf for the sand to be trucked out of the resource area.

Staff Storing the soil post dewatering can be a condition similar to draining pools as stored outside the area.

This is an area considered devoid of shellfish and is considered an area suitable for aquaculture

Have everything needed to close.

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

Vote Carried unanimously

**B. Amended Orders of Conditions**

1. Hither Creek Boatyard, Inc – 20 North Cambridge Street (59.4-2;38-14&15; 60-17) SE48-2141

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Recused None  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative **Paul Santos**, Nantucket Surveyors - Asked for a continuance to allow staff to ascertain whether or not Mr. LaFleur and Mr. Topham must recuse.  
 Public None  
 Discussion (5:16) LaFleur & Topham noted they might not be able to sit on this project.  
 Staff He will look into the situation; noted that Mr. Champoux should be back on December 14, 2016.  
 Motion Continued to December 14, 2016, by unanimous consent.  
 Vote N/A

**III. PUBLIC MEETING**

**A. Orders of Condition**

1. Haulover, LLC – 165 Wauwinet Road (7-1.1) SE48-2932

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Staff Condition 20: and Condition 21 relate to conditions for MNH. Condition 22: photos of general condition of the area.  
 Discussion (5:19) None  
 Motion **Motion to Approve as drafted.** (made by: Erisman) (seconded by: Steinauer)  
 Vote Carried unanimously

2. 62 Walsh Street, LLC – 62 Walsh Street (29-85) SE48-2933

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Staff Will add Condition 19: garage roof runoff to be infiltrated; will add Condition 20: no materials to be stored below the flood elevation.  
 Discussion (5:21) **Erisman** – Asked if there is a condition for subsurface drainage for roof run off to be in the plan. We also talked about material storage on the floor of the garage.  
 Motion **Motion to Approve as amended.** (made by: Steinauer) (seconded by: Topham)  
 Vote Carried unanimously

3. Nantucket Yacht Club – 4 South Beach Street (42.4.2-59) SE48-2931

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Staff From the discussion, will add Condition 19: no fertilizer or irrigation permitted; Condition 20: all walkways to be permitted.  
 Discussion (5:24) **Bennett** – Asked about walkways.  
 Discussion (5:24) **Erisman** – Asked if it could be conditioned for periodic testing of the roof run off.  
 Discussion (5:24) Discussion about effect of the Town’s stormwater drainage system discharging into the harbor.  
 Motion **Motion to write the Planning Board a letter concerning drainage.** (made by: LaFleur) (seconded by: Steinauer)  
 Vote Carried unanimously  
 Motion **Motion to Approve as amended.** (made by: Steinauer) (seconded by: LaFleur)  
 Vote Carried 4-1//Erisman opposed

4. 23 Commercial Wharf JA, LLC – 23 Commercial Wharf (42.2.4-5) SE48-2935

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Staff From the discussion, will add Condition 21: no fertilizer or irrigation permitted; Condition 22: roof run off must be infiltrated.  
 Discussion (5:37) **Erisman** – They didn’t have a plan for gutter or downspouts.  
 Discussion (5:37) **Steinauer** – Add a condition that the roof run off must be infiltrated  
 Motion **Motion to Approve as amended.** (made by: Steinauer) (seconded by: Topham)  
 Vote Carried unanimously

5. Holly Farm Realty Trust – 290 Polpis Road (25-3) SE48-2936

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
 Staff None  
 Discussion (5:41) None  
 Motion **Motion to Approve.** (made by: LaFleur) (seconded by: Steinauer)  
 Vote Carried unanimously

6. Nantucket Island Resorts – 50 Easton Street (42.4.1-23) SE48-2934

Sitting Bennett, Erisman, Steinauer, LaFleur, Topham  
Staff Condition 24 covers sand being removed to outside the resource area; will oil discharge is also required to be removed to outside the resource area.  
Condition 19 covers a silt fence; will add a silt curtain also be on the barge.  
Discussion (5:42) **Steinauer** – Need something about where the sand is stored.  
**Erisman** – If oil discharges, do they have to notify staff.  
**LaFleur** – There should be a silt fence on the barge.  
Motion **Motion to Approve as amended.** (made by: Steinauer) (seconded by: LaFleur)  
Vote Carried unanimously

**B. Other Business** (5:46)

1. Approval of Minutes 11/16/2016: adopted by unanimous consent.
2. Enforcement Actions:
  - a. Map and Parcel 45-1 adjacent to 175 Polpis Road – Had a call from Nantucket Island Land Bank in regards to any progress on the enforcement action issued against them and an abutter for unpermitted brush cutting on Land Bank property. That is due by the next meeting.
3. Reports:
  - a. NP&EDC, Bennett – nothing to report
  - b. Mosquito Control Committee, Erisman – nothing to report
4. Commissioners Comment
  - a. None
5. Administrator/Staff Reports
  - a. He will get a letter to the members. The board should consider having a special meeting to talk about stormwater management and invite the Planning Board and BOH. This board is tasked with managing all natural resources for the Town; if we want to change stormwater management, it starts here.

Motion to Adjourn: 5:54 p.m.

Submitted by:  
Terry L. Norton