



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Thursday, March 11, 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, Joe Topham,  
Seth Engelbourg, Maureen Phillips, and Mark Beale

Called to order at 5:00 p.m. by Ms. Erisman

Staff in attendance: Jeff Carlson, Natural Resources Director; Joanne Dodd, Natural Resources Coordinator  
Attending Members: Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

\*Matter has not been heard.

### **I. PUBLIC MEETING**

- A. Announcements**
- B. Public Comment – None**

### **II. PUBLIC HEARING**

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

1. Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337 (**Cont. 03/25/2021**)
2. \*Mouline – 27 Wanoma Way (92.4-306) SE48-3392

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
Representative Jeff Blackwell, Blackwell & Assoc.  
Public None

Discussion (5:07) **Blackwell** – For construction of 54-foot-long beach stairs to the shorefront area supported by helical piers hand installed. Bottom step ends 7 feet before coastal dune field begins.  
**Phillips** – Asked how they are accessing the beach without stairs.  
**Blackwell** – He’s not aware what the previous owner did; his client just purchased the property.  
**Phillips** – Asked the risk of erosion.  
**Blackwell** – Over the past 10 years, this area of the Tom Nevers shoreline has been very stable; the bank is well consolidated.  
**Topham** – Suggested a retractable stair, especially along the north shore. Also, he’d prefer no landings.  
**Erisman** – The lower landing seems large and would be undermined in a storm.  
**Beale** – He would support retractable stairs; especially the last half.  
**Golding** – He’d prefer no landing at the bottom; that would be less obtrusive. Pointed out that the abutting homes don’t have landings.  
**Blackwell** – The stairs are at elevation 16 and well above the 100-year storm level. He feels that in this location, wooden stairs would be more aesthetically pleasing. Asked for a 2-week continuance.

Staff Confirmed the bank is heavily vegetated with sparse dune grass at the bottom of the bank.  
Motion Continued to March 25.  
Roll-call Vote N/A

3. Weissenberger – 84 Pocomo Road (15-40) SE48-3364 (**Cont. 03/25/2021**)
4. Trojah Nominee Trust – 26 Easy Street (13-22) SE48-3369 (**Cont. 03/25/2021**)
5. \*Nantucket Islands Land Bank – 15 Commercial Wharf (42.2.4-9) SE48-3399

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
Representative Art Gasbarro, Nantucket Engineering & Survey  
Public None

Discussion (5:18) **Gasbarro** – This is adjacent to Petrel Landing; the proposal is to remove the existing structure and remaining rubble and propane tanks then restore the site to existing grade. There is a condition under Chapter 91 to maintain a bench on the site. Work is within land subject to coastal storm flowage, coastal bank, and coastal beach.

Staff Have everything needed to close.  
Motion **Motion to Close.** (made by: Topham) (seconded)  
Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

6. \*Goran & Melinda Puljic – 14 Almanack Pond Road (25-12) SE48-3391 (**Cont. 03/25/2021**)
7. \*Sweet Meadow Sylvia Ln, LLC – 74 West Chester Street (41-478) SE48-3379 (**Cont. 03/25/2021**)

8. \*Abrams Point, LLC – 34 Shawkemo Road (27-3.1) SE48-3395  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Public None  
 Discussion (5:21) **Madden** – This is to add a cart path in the southeast portion of the site within the buffer to a bordering vegetated wetland and coastal bank; an existing grass path will be removed from within the 25-foot buffer and the area replanted with arrowwood and sweet pepper bush.  
**Phillips** – Asked if 36 Shawkemo is also doing the cart path (yes). Asked if the work will be done at the same time (yes).  
 Staff Have everything needed to close.  
 Motion **Motion to Close.** (made by: Topham) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
9. \*Thomas Keegan – 41B Cliff Road (29-40) SE48-3396  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Brian Madden, LEC Environmental  
 Public None  
 Discussion (5:25) **Madden** – There is a bordering vegetated wetland in the northeast portion of the site; work is outside the 50-foot buffer. Proposal is to reduce the grade around an existing patio for expansion and build 2 retaining walls extending into the 100-foot buffer. Erosion control is shown on the plan. A set of concrete stairs will be removed. Would be willing to remove the debris.  
**Golding** – Asked how obtrusive the stone wall will be to the people on the street below.  
**Madden** – Based on street views from North Beach Street, there are mature trees abutting the wetland.  
 Staff When we did our site inspection, there’s a couple piles of debris down by the bordering vegetated wetland; asked the applicant to remove that material by hand.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
10. \*Wendy & James Douglas – 339 Polpis Road (24-23) SE48-3398  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None  
 Discussion (5:30) **Rits** – This is for construction of a small porch on the south side of the house outside the 50-foot buffer to wetlands and encloses an existing set of stairs. The applicant is requesting to do brush cutting between the 25- and 50-foot buffers to the wetland, i.e. remove underbrush.  
**Topham** – Asked if the vines would grow back.  
**Rits** – They want to maintain the area with mowing and cutting to allow native vegetation to grow in.  
**Engelbourg** – Asked the species of vine to be cut.  
**Rits** – He’s not sure. There was some green briar and he’s sure bittersweet.  
**Engelbourg** – In cases if vine entanglement, cutting isn’t effective unless you can get to the roots; herbicide treatment might be best. We should know what the potential invasiveness of species we’re talking about; the goal is to help the trees survive.  
**Rits** – We’re waiting for Massachusetts Natural Heritage signoff so happy to review the species and come back with an herbicide treatment.  
**Golding** – He’d like to see photos and for the buffers to be demarcated.  
**Topham** – He finds a lot of invasive vines take over trees and when removed, the tree is dead; would like any dead trees replaced. The 50-foot line should be delineated so cutting doesn’t progress further.  
**Phillips** – Asked what will happen in the 25- to 50-foot buffers; the description in the packet is confusing. Not clear on what’s getting cut and where; pictures would be helpful.  
**Carlson** – R.J. Turcotte, Nantucket Land Council, asked how the area of brush cutting is being calculated.  
**Rits** – He will clarify the area of work with photos and an amended plan. Asked for a 2-week continuance.  
 Staff The way we look at areas of disturbance is we look at the buffer zone in totality.  
 Motion Continued to March 25.  
 Roll-call Vote N/A

11. \*High Tide Partners, LLC – 8 Ackermuck Way – Lot 2 (41-618) SE48-3397  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Mark Rits, Site Design Engineering  
 Public None  
 Discussion (5:43) **Rits** – This is to redevelop a property including removal of a house, construction of a pool, construction of a pool house, and grading with all structures outside the 50-foot buffer within existing lawn area. The grading is to straighten out a couple of contours.  
**Phillips** – Between the 50 & 100-foot buffers, asked what species that tree is.  
**Rits** – There are a number of smallish oaks; they are proposing to take down the one in the pool area and one adjacent to the house corner. All native trees in the wetland area and adjacent won't be touched.  
**Golding** – He's concerned about a vague proposal for grading without a cross section and how it will impact runoff into the wetland. He wants to see more details.  
**Erisman** – She agrees. Asked if the owner would be willing to revegetate to slow runoff leading to the wetland.  
**Rits** – The plan is to straighten out the 24, 25, & 26 contours a little to bring them around the patio and flatten the lawn area with 6" to 12" of fill.  
**Golding** – He still worries about contractor mission creep; a cross section would clarify and help.  
**Carlson** – Allen Morton, abutter, asked if all structures will be removed, will more structures be built, what would happen to the drainage ditch; is there a Lot 1.  
**Rits** – Work on Lot 1 was approved several months ago; Lot 3 is for access only. No change is proposed to the drainage ditch. Asked for a 2-week continuance.

Staff None  
 Motion Continued to March 25.  
 Roll-call Vote N/A

**B. Amended Order of Conditions**

1. Baltzer, 66 Hulbert Nominee Trust – 66 Hulbert Avenue (29-55) SE48-3341  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Paul Santos, Nantucket Surveyors  
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP  
 Caroline Baltzer, for owners  
 Marty McGowan, 'Sconset Gardner  
 Public None  
 Discussion (5:53) **Santos** – This second amended order of conditions for work within land subject to coastal storm flowage and small isolated vegetated wetland. At the first amendment request, we separated out the handicapped (H/C) ramp; this proposal addresses commissioner concerns about the ramp expressed at that meeting. Reviewed this amendment request regarding the ramp, patio, decks, walkways, and revegetating an area with arrowwood. We have waivers in place and request a continuance of those waivers through this amendment.  
**Topham** – This is exactly what he was thinking; thanked for working with the commission.  
**Engelbourg** – Asked if the H/C access can be conditioned to only function as H/C access and will be removed if circumstances change.  
**Topham** – Another option is to condition that it remains as a deck and can't be turned to habitable space.  
**Reade** – That is an appropriate way to handle the ramp.  
**Beale** – Asked why the access won't be in front.  
**Santos** – The layout of the house; this provides direct access to Ms. Baltzer's living area rather than through the living room.  
**Golding** – He shared Mr. Beale's reservations that it be on the east side; agrees with Mr. Topham's suggestion but would like it conditioned to be removed if the house changes ownership.  
 Staff It's hard to regulate H/C access; if another person goes up the ramp, questions if that is a violation.  
 Mr. Topham's suggestion for a condition it must remain open space is a good one.  
 Recommend close and issue  
 Motion **Motion to Close and Issue.** (made by: Topham) (seconded)  
 Roll-call Vote Carried 6-1// Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Beale-nay

2. Nantucket Conservation Foundation, Inc – Windswept Bog; Barnard Valley Road (25-38)
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Karen Beattie, Nantucket Conservation Foundation
- Public None
- Discussion (6:07) **Beattie** – This amendment is asking for mechanical brush cutting equipment access for the treatment; this is for invasive species removal for about ¼ acres of Phragmites on the Cranberry Bogs using clip and drip Rodeo. Would be in the fall when conditions are dry. Cutting would consist of only the above ground portion of the Phragmites. Don’t want to impact nesting birds or do it when soil is saturated. Once treatment is completed, native vegetation will be allowed to grow back without further cutting. While doing an extensive survey of the property, we located another small population of Phragmites, love grass, and black swallow swards; asking permission to do proactive treatment as other invasive species are found. Will consult with ConCom about other species found.
- Staff Recommend Close and issue.
- Motion **Motion to Close and issue.** (made by: Beale) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
3. Safe Harbor Realty Trust – 2 Harbor View Way (42.4.1-31) SE48-3008
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Ryan Maxwell, Bracken Engineering
- Public None
- Discussion (6:15) **Maxwell** – Proposed changes were completed within land subject to coastal storm flowage; this is to bring the permit within compliance.
- Erisman** – After-the-fact amendments like this concern her; she wonders who was watching the project. Contractors should come before us as well since designing on the fly is inappropriate.
- Maxwell** – We checked the plans; he’s not sure what went wrong.
- Engelbourg** – After-the-fact approval is not good. The changes have a negative impact on the resource areas. Asked if there is a way to reference the fact the work was done without a permit.
- Golding** – He takes a dim view of this; he doesn’t want to issue the amended permit until they remove the unpermitted porch.
- Topham** – He feels the steps to the north as well as the wrap around porch won’t allow storm flowage. He wants to see photos, but he also isn’t willing to give an after-the-fact approval.
- Erisman** – Took a consensus: the commissioners want to view the site or see photos.
- Maxwell** – Asked for a 2-week continuance.
- Staff In situations like this, he usually puts that the order is amended to include after-the-fact work done. Sometimes this happens on projects where there several entities involved, the Historic District Commission amends the project and they forget to come back to ConCom.
- It’s easy enough for people to view it individually; but we can pick a time for a view.
- Motion Continued to March 25.
- Roll-call Vote N/A
4. Shawkemo I, LLC – 36 Shawkemo Road (27-3) SE48-3032
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Brian Madden, LEC Environmental
- Public None
- Discussion (6:23) **Madden** – This is the extension of the cart path discussed for 34 Shawkemo Road. Except for a very small section, it extends through existing lawn. The amendment also includes construction of a green house.
- Erisman** – Asked if the shed right next to the wetland buffer could be moved.
- Madden** – It is historically established on the property and is used for storage. As the path extends, the plantings could be extended into the area around the shed.
- Golding** – Asked if we could issue the amendment with conditions attached.
- Erisman** – Doesn’t think that’s possible.
- Madden** – The applicant would be willing to revegetate within the 25-foot buffer; this request isn’t asking for waivers.
- Staff Recommend close and issue
- Motion **Motion to Close and Issue.** (made by: Engelbourg) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

5. Nantucket Islands Land Bank – Washington Street/Consue Springs (55; 55.1.4-415;15) SE48-3220
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Rachael Slosek, Nantucket Islands Land Bank
- Public None
- Discussion (6:29) **Slosek** – This is to create a vegetated buffer of native species and fencing between the house and lawn area. The board fence would abut the bike path at 4-feet high for 100 feet then turn into split rail. No cultivars, just native shrubberies. We would like to put topsoil along the lawn area and install irrigation; dredge soils from the harbor were dumped here so there is about 15” of shell material. The only work within the 50-foot buffer is a small area in the southwest end.
- Topham** – Asked what is in the area within the 50-foot buffer.
- Slosek** – She’s not sure. There is no structure there.
- Engelbourg** – He would support irrigation to get vegetation established but wants it to be temporary.
- Golding** – Asked the water source for irrigation.
- Slosek** – That’s up for discussion, either from the abutter or Town water. The hedge plants are strictly native and salt tolerant; she will provide a full list of the plants.
- Carlson** – Burton Balkind asked if there is path to access the beach.
- Slosek** – Yes; there will be an accessible path to the beach.
- Topham** – He’s glad to see this plan going forward.
- Staff That area Mr. Topham asked about was used by the abutter to store boats and trailers.  
Recommend close and issue.
- Motion **Motion to Close and issue.** (made by: Topham) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**III. PUBLIC MEETING**

**C. Requests for Determination of Applicability**

1. 6 Shawkemo Road Realty Trust – 6 Shawkemo Road (43-91.2)
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Art Gasbarro, Nantucket Engineering & Survey
- Public None
- Discussion (6:42) **Gasbarro** – This is for a sewer connection switching from on-site septic within the buffer to a bordering vegetated wetland. The existing tank will be pumped and filled. Native plantings will be planted within the buffer with no work closer than 25-feet to the resource area.
- Engelbourg** – A few cultivars are on the planting list and should be replaced.
- Topham** – Asked what will happen with the mixed meadow.
- Gasbarro** – There is an approval for work on the property to the west; where we have “keep existing plant materials”, nothing will happen. The abutting property is under common ownership but different title. This is only for 6 Shawkemo. The plant list came from Julie Jordin; we can provide a revised planting plan.
- Erisman** – As long as we can condition the RDA, that should rectify the situation.
- Engelbourg** – The plan lists Virginia Sweetspire and Hartlage Wine, and Wood Sedge. Some sedges might not be native.
- Staff You can condition this with native species only, no cultivars.  
Recommend Positive 2A confirming boundaries and Negative 3 work within the buffer.
- Motion **Motion to Issue as recommended and conditioned native no cultivars with the final planting list to be approved through staff.** (made by: LaFleur) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. Nanticut Realty Trust – 27&29 North Liberty Street, 34 West Chester Street & 8 Wesco Place (Various)
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Art Gasbarro, Nantucket Engineering & Survey
- Public None
- Discussion (6:49) **Gasbarro** – This is to confirm resource area boundaries delineated by David M. Haines, Haines Hydrogeologic Consulting.
- Staff Staff looked at the site and agree with the delineation.  
Recommend Positive 2A confirming boundaries
- Motion **Motion to Issue as recommended.** (made by: Topham) (seconded)
- Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**D. Certificates of Compliance**

1. Nantucket Islands Land Bank – 35 Almanack Pond Road (46-7.1) SE48-3317  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Representative Rachael Slosek, Nantucket Islands Land Bank  
 Staff This was for a boardwalk; they've met the requirements of the permit and it is in compliance.  
 Discussion (6:53) **Erisman** – Appreciates the inclusion of signage asking people to stay on the boardwalk.  
**Phillips** – Likes hiking through there.  
**Topham** – Other boardwalks get slick with pressure-treated wood; he saw an 8” to 12”-wide mesh to put on top to prevent slipping. Suggested looking into that.  
 Motion **Motion to Issue.** (made by: Golding) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. Sweet Meadow Sylvia Lane, LLC –74 West Chester Street (41-478) SE48-3017 **(Cont. 03/25/2021)**

**E. Orders of Condition**

1. Nantucket Conservation Foundation – Medouie Creek (20-25 Adj Waterbody) SE48-3349  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Conditioned that the applicant is responsible to mark the area.  
 Discussion (6:58) None  
 Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. Nantucket Islands Land Bank – 15 Commercial Wharf (42.2.4-9) SE48-3399  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Cond was to provide photos of the site to ensure vegetation will take hold.  
 Discussion (7:00) None  
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
3. Abrams Point, LLC – 34 Shawkemo Road (27-3.1) SE48-3395  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Conditioned for general monitoring and no cultivars. Also, have a condition to remove invasive species if they find them.  
 Discussion (7:02) None  
 Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
4. Thomas Keegan – 41B Cliff Road (29-40) SE48-3396  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Has findings related to land subject to coastal storm flowage and the pool and cabana are outside ComCom jurisdiction. Conditioned the pool can't be drained into commission jurisdiction. Will add Condition 19 that all debris in buffer zone is to be removed. Can't require a pool operator be registered since the pool is outside our jurisdiction  
 Discussion (7:03) **Erisman** – The pool is outside ConCom jurisdiction; should we require pool operator to be registered to ensure it isn't emptied to within our jurisdiction.  
 Motion **Motion to Approve as amended.** (made by: Topham) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**F. Other Business**

1. Approval of Minutes 02/25/2021:  
 Golding – Page 3 Order of Conditions Nantucket Conservation Foundation Head of Plainses should read “clip and drip.”  
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)  
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. Reports:  
 a. CRAC, Golding
3. Monitoring Reports
4. Commissioners Comment  
 a. Golding – Asked for an update about NETCO.  
 b. Comment 2
5. Administrator/Staff Reports  
 a. The original enabling legislation allows ConCom to regulate and create standards for the protection of the watershed. This commission might be able to adopt those outside our regular regulations. If the Select Board decides to adopt them, ConCom can release them. He will send a copy to everyone.  
 b. Been in contact with owner of 300 Polpis Road about their parking area; trying to confirm it is in the correct location.

- c. There have been some questions/concerns about vertical bulkhead extension on Hulbert Avenue; looking into whether or not tacking on a sheet of plywood is legal.
- d. Had a court hearing schedules with 119 Baxter Road; about 30 minutes before the hearing, they paid their ticket and the hearing was cancelled. The hope had been the judge would order them to appear before ConCom. We're back to issuing them another ticket. It's similar to the problems with Holly Wood Farms on Polpis Road. Working with the police on those and a couple of others as well.
- e. In front of 79 Baxter Road, Coastal Conservancy and Mr. Balkind sent photos of what's happening. Spoke to DEP about it today about options; it is visibly evident that there was work done below the rack line indicative of where high water is. DEP felt it prudent to issue out an enforcement action and against SE48-1602 and SE48-1657. It is important to issue a ticket to the permit holder, SBPF is the permit holder of record; issue one to the Town of Nantucket, the property owner; and issue one to 79 Baxter Road, the beneficiary. That should ensure someone responds. Tried to reach out to NETCO but they are no longer NETCO; it was purchased by a larger company called SEMCO. Left a message with a contact there. One of the parties is a property owner; we will get whoever is responsible in front of us to discuss the violation. DEP suggested finding a way to close the old permit or put conditions for work through enforcement to update the permit.

**Golding** – It is impassible when the tide is in. At what point do we require they be removed or moved enough for access. The dips in the beach around the rolls were very clear.

**Carlson** – It's not an uncommon issue. Hopes to get some guidance from DEP. When we get the parties in front of us, we can create a strategy.

**Topham** – He feels like this coir roll is going to fail; it's not providing any sand to the system. NETCO hasn't been doing what the application required.

**Carlson** – Our recommendation would also include a cease and desist.

**Engelbourg** – Asked if the order has expired (yes). Hopefully one of the three parties will respond. Feels if it is not sufficiently compliant and the permit has expired, we should be able to compel them to remove it or bring forward a new application.

**Carlson** – They need to address the sand and working situation and bring it into compliance; or you order it through the enforcement action. He will have Town Counsel ensure we are doing it properly.

**Topham** – Asked if Gregg Bergman should be looking at this.

**Carlson** – The difficulty is the conditions as written, the reporting/monitoring conditions are vastly different now. Also, the area is larger than just 79 Baxter Road, so the requirement is greater. The Town hasn't done due diligence to ensure they are meeting requirements. Through CRP, a better long-term plan might come forward.

**Topham** – Asked if we should write a letter to the Select Board pointing out another violation on this street.

**Erisman** – In this case the enforcement will go to the Town.

**Carlson** – When we send out an enforcement order, we always send a letter explaining what people are getting and provide our contact information.

**Topham** – Asked if it makes sense to issue a letter to the Town or Select Board then attend a meeting to bring it up.

**Carlson** – Suggested designating someone to represent ConCom at a Select Board meeting about the situation. What's happened is the permits in the mid-2000s for coir logs were for an area based upon Baxter Road addresses and the permit obtained by SBPF. Since then, some folks did not install anything. 79 Baxter has been the most active. Since then, the license expired, and no one was notified of the expiration. There is no active license, the permits have expired, they are doing maintenance, and it was overshadowed by greater projects.

**Erisman** – Asked if the commissions could have a roll in open space could have an impact on the Town licensing a structure through that legislation.

**Carlson** – He'd have to look into that and ask counsel. The ability for Town-owned land to be sold or used by a private entity lies within Town Meeting or the Select Board. Doesn't know how that plays into a project licensed before the bylaw was enacted; that is a question for Town Counsel.

**Engel** – It sounds like they are also out of compliance with the Town licensing requirements. Asked if the Town know that.

**Carlson** – It would be interesting to ask the Town about relicensing it or reaffirming their use of Town property. He thinks the Town is aware the license is not current.

**Erisman** – The Town is aware that there are unlicensed structures. She'd be happy to attend the Select Board meeting and raise this publicly; unfortunately, she doesn't have much faith that they will follow up on this.

**Phillips** – If we are insistent on getting on the public record that the license expired a while ago, it's the kind of thing the Inquirer & Mirror might pick up on making the Select Board be more attentive. We'd be speaking more to the public than the Select Board.

**Carlson** – He will draft a list and put review of the letter on the next agenda.

**Topham** – Asked about being able to finalize the fines.

**Erisman** – That's set for a meeting date to review regulations.

Motion **Motion to Issue the enforcement actions.** (made by: Golding) (seconded)

Roll-call Vote Carried unanimously//Beale; Engelbourg; Erisman; Golding; LaFleur; Phillips; Topham-aye

**G. Adjournment**

Motion **Motion to Adjourn at 7:52 p.m.** (made by: Engelbourg) (seconded)

Roll-call Vote Carried unanimously//Beale; Engelbourg; Erisman; Golding; LaFleur; Phillips; Topham-aye

Submitted by:  
Terry L. Norton

PROPOSED