



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, August 20, 2020 – 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

Earlier Departure:

Agenda adopted by unanimous consents

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – None

II. PUBLIC HEARING

A. Notice of Intent

1. Eli Zabar – 47 Squam Road (13-22) SE48-3253 **(Cont. 09/03/2020)**
2. Nantucket Point of View, LLC – 9 Lincoln Avenue (30-137) SE48-3278 **(Cont. 09/17/2020)**
3. 62 Cliff Road Realty Trust – 62 Cliff Road (41-20) SE48-3306 **Withdrawn**

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

Motion **Motion to Accept the withdrawal.** (made by: Topham) (seconded)

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

4. Benton & Kelly Heyworth – 8 Pond Road (56-156) SE48-3324 **(Cont. 09/03/2020)**
5. Kim Glowacki – 46 Easton Street (42.4.1-22) SE48-3285

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

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

Representative Dan Bailey, Pierce Attwood LLP
Dan Wells, Goddard Consulting, LLC
Don Bracken, Bracken Engineering
Howard Lincoln, owner

Public Anne Taylor
R.J. Turcotte, Nantucket Land Council, Inc.

Discussion (5:10) **Bailey** – The commission wanted to see a revised site plan, which was submitted, that pushed the proposed structures farther from resource areas; the commission also wanted information on the existing bulkhead. Submitted historical photos from before sand accreted. The proposed dwellings are entirely out of the 25-foot buffer; amount of square footage within the 50-foot buffer has been reduced by close to 20%. The buried section of the bulkhead has been dug out; proposing a new bulkhead from property line to property line and match bulkheads to the east and west. The Frisbees of 42 Easton Street now are supportive; read supporting email into the record. Eastern end of the bulkhead is in poor shape with a gap between it and the Frisbee’s bulkhead; will replace the bulkhead and close that gap. Reviewed the history of the bulkhead, which was authorized by a Chapter 91 license issued in 1899. This is the only property on Easton Street that hasn’t rebuilt its bulkhead in the last 60 years.

Bracken – This bulkhead isn’t subject to constant wave action. Bring up bulkhead about 5 inches and fill in behind up to the top. The lowest exposed bulkhead is where floodwaters come in. Described how the bulkhead would be constructed.

Phillips – Wasn’t clear on the accretion of the sand due to uneven bulkhead and erosion; asked what might have happened to cause that.

Bracken – The erosion is behind the bulkhead; it could continue with accretion over time but doesn’t think the bulkhead will impact that.

Topham – Asked if the tenant pilings will be driven or excavated.

Bracken – Believes they will be vibrated in.

Topham – He worked on that street and watched storm surge come in and over and into the wetlands; this is the weakest link.

Engelbourg – Asked if the Chapter 91 license is in compliance due to lack of remediation. Nantucket regulation indicates any bulkhead repair or replacement requires an analysis for a more environmentally solution. This could be a prime site where that analysis makes sense.

Erisman – The dune is very concerning regarding a bulkhead proposal; our regulation prohibits bulkheads through a coastal dune. This is the perfect location for a living shoreline as the bulkhead has been defunct and the resource areas have rebounded. Regarding the local bylaw regarding the 20% improvement, a pre-1978 house improved greater than 20 % loses that protection.

Engelbourg – Going back to the comment about equity of bulkheads in the area, though that’s admirable, it’s not consistent with our regulations. The mention of adding an additional bulkhead to connect is new construction and there’s no way it would be permissible.

Beale – Looking at the plans, he could be supportive with the proper conditions of the existing house in its current location without excessive improvement; however new structures shouldn’t be allowed within the 50-foot buffer, especially the proposed structure on the new east lot.

Golding – Agrees with Mr. Beale. Our performance standards are clear about all structures not water dependent to be 50-feet from the resource area. All new construction should be outside the 50-foot buffer.

Engelbourg – Appreciates the analysis of the surface area within the 50-foot buffer but there is a substantial increase within the 100-foot buffer. This amount of new construction is not a net benefit.

Topham – Okay with the existing structure being retained. Has concerns about the new house to the east. Putting these on piers does create a net benefit by allowing flood water to flow through.

LaFleur – He agrees with Mr. Topham. Considering future sea-level rise and the velocity of flood waters, having these elevated to the storm level allows water to flow through.

Erisman – The east-lot dwelling is a concern as it is new and there is room for it be outside the 50-foot buffer. Though the piers allow flow through, the roof runoff is doubled, and the plans don’t address that run off.

Topham – Agrees about the roof runoff, but if the structures are elevated, the rain water could be directed under the houses.

Bracken – On Commercial Wharf, we excavated under the structure and placed a bed of stone then directed the roof gutters into that area; could do that here.

LaFleur – Considering what Mr. Bracken just said it makes more sense to repair the bulkhead.

Carlson – Read comments from Ms. Taylor: there is a great deal of groundcover obliterating the only view gap; this is a big forever change for the area by destroying a natural resource; access to the water is required by law.

Read comments from Mr. Turcotte; there is still a net increase of impervious surface within the buffer zone; this area of Nantucket is extremely vulnerable to climate change with rising sea level and storm surge change. Town should discourage expanding impervious surfaces in this area. The Select Board and Coastal Resiliency Advisory Committee have taken critical steps in this direction and ConCom should follow suit.

Read comments from Mr. Lincoln: view from Easton Street is not within ConCom purview; asked what wetlands are being protect; contends roof runoff argument is specious.

Engelbourg – Wetland scenic views are within ConCom purview.

Bailey – Reminded the commission that there are 2 alternatives: one leaves the existing structure where it is or this new project where the amount of groundcover within the 50-foot buffer is substantially reduced. If the second isn’t approve, the existing will remain in place. Regarding the Chapter 91 license: it is not an issue getting a reissued license for the bulkhead; it requires access to the water. Permitting boards are not bound by prior decisions of previous boards, but owners do have a right to being treated equally. Asked for a 2-week continuance

Staff None

Motion Continued to September 3rd.

Roll-call Vote N/A

6. Nantucket Island Land Bank – 35 Almanack Pond Road (46-7.1) SE48-3317 **(Cont. 09/03/2020)**

7. *Nantucket Island Land Bank – 101 Miacomet Avenue (81-149) SE48-3322

Sitting Erisman, Golding, LaFleur, Topham, Phillips, Beale

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

Representative Guthrie Diamond

Naomi Valentine, SWCA Environmental Consultant.

Public R.J. Turcotte, Nantucket Land Council, Inc. (NCL)

Discussion (5:58) **Valentine** – This is for invasive species management along Burchell’s Pond adjacent to Miacomet Pond. Parrot feather, which extends 230 linear feet, is an aggressive aquatic plant that reduces habitat. Land Bank has waited for the authorization for the use of ProcettaCOR™ for this project. Parrot feather can spread through fragmentation and water fowl.

Topham – Asked if the spread is recent. He doesn’t remember it being there in a previous presentation.

Diamond – There were barriers placed at the bottom of the channel to inhibit the spread of parrot feather into Miacomet Pond.

Carlson – When we looked at the first fragment in the benthic environment, the spread was slight but not enough to use the benthic barriers for removal. Regarding the 5-year permit; our bylaw allows for 3-year

permit, but they can ask for an extension; suggested building that into the order of conditions and a level of monitoring, i.e. annual report on herbicide use and photos.

Topham – The 3-year permit builds in the opportunity for an update.

Carlson – Read Mr. Turcotte’s comments: parrot feather is difficult to eradicate and, manual removal is not an option. This should be addressed before it takes over one of Nantucket’s great natural resources. NCL is hesitant to support use of chemicals but this is the most viable option in this case; parrot feather is one of the most tenacious invasive species on Nantucket.

Staff Have everything needed to close.

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

Roll-call Vote Carried 6-0//Beale, Erisman, Golding, LaFleur, Phillips, and Topham-aye. * Engelbourg Recused

8. Nantucket Conservation Foundation – Windswept Bog; Barnard Valley Road (25-38) SE48-3329

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

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

Representative Jeff Carlson, Natural Resources

Public None

Discussion (6:13) **Carlson** – This is for phragmites removal; we were waiting for Massachusetts Natural Heritage determination which came in; they provided comments to be added to the order of conditions.

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. BSS Hummock Pond, LLC & Hummock Pond Holdings, LLC – 287/289 Hummock Pond Road (83-4;39) SE48-3320

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

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

Representative Brian Madden, LEC Environmental

Don Bracken, Bracken Engineering

Public none

Discussion (6:14) **Madden** – Submitted revised plan relocating the pool and deck outside the 50-foot buffer zone; the redevelopment matches existing conditions. Proposed pool was reduced in size to 10X16. The outdoor shower is on the north side of the structure, just outside the 50-foot buffer.

Topham – Asked if the boardwalk on the west side will remain.

Madden – That will be removed.

Staff Have everything needed to close.

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

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

10. *Mary Jo Buckland – 113 Hummock Pond Road (546-59) SE48-3330 **(Cont. 09/03/2020)**

11. *Oak Hollow Realty Trust – 12B Oak Hollow Lane (56-128.2) NAN-132

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

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

Representative Don Bracken, Bracken Engineering

Public None

Discussion (6:19) **Bracken** – The order of conditions had expired; this is a new application with some changes – reviewed the difference.

Engelbourg – Massachusetts Natural Heritage shows it as a vernal pool; asked about applying to them.

Bracken – It is not an actual vernal pool therefore we don’t need to apply to them.

Erisman – Asked if we can require them to check that out.

Staff Explained the conditions under which Massachusetts Natural Heritage requires applications and what count as a potential vernal pool. We run into the issue of seasonality of vernal pools – there is no obvious outlet. We inspected that site today; it is in compliance with the previous orders and the surrounding vegetation is undisturbed.

Have everything needed to close.

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

Roll-call Vote Carried //Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

12. *Tina Eger McGoldrick Trust – 33 Quidnet Road (21-27.2) SE48-3327 **(Cont. 09/03/2020)**

13. *Paul C. Shepard – 41 Nonantum Avenue (87-41) SE48-3333

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

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

Representative David M. Haines, Haines Hydrogeologic Consulting

Public None

Discussion (6:25) **Haines** – This is for renovations of an existing house within the buffer to a coastal bluff and coastal dune. Land subject to coastal storm flowage is at elevation 10 with the toe of the bluff at elevation 15. A silt fence will surround the house. The septic will be upgraded; that work is outside the 100-foot buffer. A water line from the new well will run to the house. No grade change is proposed and landscaping will be minimal. All work is within the existing footprint.

Staff Have everything needed to close.

Motion	Motion to Close. (made by: Golding) (seconded)
Roll-call Vote	Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
14. *Wallack	ACK, LLC – 45 Hulbert Avenue (29-16) SE48-3331
Sitting	Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
Documentation	Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative	Stan Humphries, Environmental Consulting & Restoration, LLC Jeff Blackwell, Blackwell & Assoc. Sarah Alger, Sarah F. Alger P.C. Luke Thornewill, Thornewill Design
Public	Bryan Swain, 38 Hulbert Avenue R.J. Turcotte, Nantucket Land Council, Inc.
Discussion (6:30)	Humphries – Raze and reconstruct a single-family dwelling, which partially lies within the 50-foot buffer; waivers are requested based upon net benefit. Resource areas area a coastal dune, coastal beach and coastal bank. First floor will be elevated above the 100-year flood level. Propose a native plant buffer along the bulkhead; an updated plant list is included. Erisman – When she looked at the existing condition, it shows a stone patio to be replaced by a porch, which counts as a structure; asked the square footage shift regarding the porch. Humphries – Would have to get that to the commission. Topham – Confirmed that by doing this they will lose their pre-1978 protective status. Golding – This bring ups similar issue to the Easton Street project. Erisman – This isn’t new structure, it is to make the existing flood compliant. Humphries – This is to make the structure flood compliant; there are some interior changes, but the footprint remains the same. In 2015, a similar project was approved at 43 Hulbert Avenue. Topham – It says in the intro the building will be razed. Humphries – This will be a whole new structure. Golding – It would be helpful to see drawings and photos of what’s being demolished and what’s proposed. Erisman – Wants more detail on the current foundation as well as what’s proposed. Golding – Asked the specific property approved in 2015 (43 Hulbert Avenue). Swain – Wants to ensure the plants along the bulkhead won’t obstruct his client’s wetland scenic view. Humphries – Beach Heather (<i>Hudsonia tomentosa</i>) and American Beachgrass (<i>Ammophila breviligulata</i>). Removed Switch Grass (<i>Panicum virgatum</i>) and Seaside Goldenrod (<i>Solidago sempervirens</i>). Erisman – Noted Goldenrod are important habitat plants for biodiversity. Engelbourg – Those should be put back into the planting plan. Suggested the applicant find other native goldenrod species that are lower and would provide diversity into the planting plan. Phillips – Regarding the footprints of the old and new, asked if the new structure is going in the same place as the existing. Humphries – Clarified the site plan; the new foot print within the 50-foot buffer is 62 square feet (SF) less than the existing. Carlson – Read Mr. Thornewill’s comments: demolish existing and replace with a new. Phillips – That’s why she was asking if this is the replacement of a rotting structure or just to put in something new. Engelbourg – This is in the same vein as the applicant doing an analysis why renovating in place isn’t a viable alternative. Would also like to see the plans on the raze and rebuild. Beale – Reiterated that he’d look fondly upon the renovation of an existing over a new construction. Carlson – Read Mr. Turcotte’s comments: request for clarification if the proposed is closer to the resource areas than the new. The northwest corner of the proposed looks to be closer to the timber bulkhead. Humphries – Asked for a 2-week continuance.
Staff	Once we get the architectural viz, what’s going in there will become clearer.
Motion	Continued to Sept 3 rd .
Roll-call Vote	N/A
15. *The Town of Nantucket	– 34 Washington Street (42-2.3.2) SE48-3332 (Cont. 09/17/2020)
16. *Nantucket Electrical Company	– 1 Candle Street (42.3.1-37) SE48-3334
Sitting	Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
Documentation	Site and topographical plans, photos, requisite departmental reports and correspondence.
Representative	Melissa Kaplan, BSC Group Adam Wilding
Public	None
Discussion (6:49)	Kaplan – This is to upgrade the distribution feeder and replace switch gears and replace manhole covers. Resource areas are land subject to coastal storm flowage and a coastal bank. All work is within currently disturbed areas. Detailed the way work will be accomplished. The metal fence will be replaced by a solid board fence and substantial vegetative screening around the substation. Engelbourg – This is an essential project. His only issue is in the screening plants; the planting plan lists all non-native; they should be replaced by comparable native species. This is an area of Town where there are a lot of non-native trees but use of native plants that perform the same sets a good example.

Golding – The fence is described as solid board, but the drawing shows it designed to allow water to flow through; we would prefer a fence that isn't solid; we want fencing that allows flow through.

Kaplan – Noted the fence is just on the back and side where the houses are. It doesn't make sense to not have space below the fences for flow through, but the space can't allow animals and humans the ability to crawl under, but some gap is allowed.

Engelbourg – It doesn't matter how the fence is engineered as long as water can pass through.

Golding – Either the illustration is accurate or not; if it isn't accurate, we need an accurate drawing.

Topham – You are granted 4-6-inch gap at the bottom of the fence; what is proposed is very commercial looking. He's fine going forward.

Staff We can condition the use of all native species; if HDC does not agree, she can come back for a minor modification.

This is the 100-year flood plain but not a velocity zone; this area does flood. The question is if the ability of flood waters to move and flood storage capacity is being impacted. If there is concern about the fence, there could be a requirement that the fence be designed and installed to least restrict the flow of flood waters.

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

B. Amended Orders of Conditions

1. *Gisela G. Lienhard – 11 Jonathan Way (75-42) SE48-3217

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

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

Representative Jeff Blackwell, Blackwell & Assoc.

Steven Cohen, Cohen & Cohen Law P.C., for contract buyer

Joe Paul, BPC

Public R.J. Turcotte, Nantucket Land Council, Inc.

Discussion (7:00) **Blackwell** – Reviewed the changes under this amendment/

Beale – Asked what's on the ground now.

Blackwell – This is a vacant lot.

Erisman – She feels this project barely got permitted the first time; we permitted a small unobtrusive structure. Wants to know how they will construct a patio on the far side of the wetlands; most companies couldn't uphold our standards. She's upset to see more structure and constructions. This was sold to us as a year-round home for Ms. Leinhard.

Cohen – The approved plan was a placeholder to put the property on the market; these are the final designs.

Golding – He agrees with Ms. Erisman; we gave them the benefit of the doubt because it was for the owner.

Topham – Agrees; he feels like the applicant is trying to push back when we were very specific, and Mr. Turcotte gave us guidance about what to look out for. He doesn't want to see more than what was permitted.

Engelbourg – He is also concerned about this. This is sensitive area. He's also concerned about ensuring the composting systems work. He can understand the desire for two structures but wants to see they both maintain the current groundcover.

Phillips – This is a significant increase in the square footage of ground cover. There is a lot going on in a very small space; still concerned about the impact on this small spot of land. Not comfortable with the additional groundcover.

Engelbourg – We need to see construction protocols for the work on the eastern end of the property. We might need to see a data run on the increase of the runoff from the additional structure.

Cohen – Groundcover might not be appreciated by commissioners, it's all outside the 50-foot buffer. The waivers are based upon the septic and 3-bedroom composting toilet system. This is a modest proposal on a lot this size.

Erisman – We had extensive conversations about this site; one was that this lot might not be buildable. We need to look at any increase considering the previous hearings.

Golding – He's not inclined to grant this. No groundwater waiver is asked for on the spa.

Blackwell – This is a shallow plunge pool, about 4-feet deep and can maintain the 2-foot separation. Says this was never represented as a year-round home for Dr. Lienhard. Besides, use cannot be considered as part of the assessment. The size of the house was never discussed because it met the 50-foot setback. This proposal doesn't require an expansion of the existing or additional waivers. Happy to work on conditioning materials to be hand-carried and use of battery-operated tools.

Golding – He wasn't comfortable with the original approval. One waiver was for the footings, it wasn't 2 feet to groundwater.

Engelbourg – There will be 2-feet of artificial material place above the groundwater with the pool set into that.

Paul – The natural grade is at elevation 9; the finished floor elevation is at elevation 11.5; the patio is 6 inches down from that. It's a patio so that is isn't a structure.

Carlson – Read Mr. Turcotte's comments: this is significantly different from the original; questions at what point it should be considered an entirely new project; the commission should have ample time and more details for review; this amendment represents a 28% increase in footprint, which is more than a modest increase.

Golding – It would be helpful to see the original drawings; he wants to be able to compare. The proposed patio is a substantial addition with additional runoff; asked about its material. (Dry-laid bluestone.)

Cohen – Asked for a 2-week continuance.

Staff Regarding when it is a new project, amended orders becomes appealable for the objects being amended.

Motion Continued to September 3rd.

Roll-call Vote N/A

2. *Kristin Engle, Trustee of Pocomo Point – 90 Pocomo Road (15-43) SE48-2946

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

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (7:43) **Santos** – The amendment is for the in-kind repair/replacement of an existing set of beach stairs.

Staff Recommend issuing

Motion **Motion to Issue the amended order.** (made by: Topham) (seconded)

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

3. *Britannia Nantucket, Inc – 81 Squam Road (13-6) SE48-3261

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

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

Representative Paul Santos, Nantucket Surveyors

Public None

Discussion (7:44) **Santos** – This amendment is to provide a more detailed plan regarding the septic upgrade, introduction of an I/A component. It will also address replacement of the septic for the main house to I/A. The upgrade is to allow an increase in the number of bedrooms.

Staff Recommend issuing.

Motion **Motion to Issue.** (made by: Golding) (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. The Monomoy Road Real Estate Trust – 26 Monomoy Road (54-148) (Cont. 09/03/2020)

2. Seven Cs Ack, LLC – 15 Medouie Creek Road (20-3)

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

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

Representative David M. Haines, Haines Hydrogeologic Consulting

Discussion (7:47) **Haines** – This is for upgrade installation of an I/A septic system discharging to existing leach field. Work is within the buffer zone about 75 feet from the wetland boundary; wetland is down a slope. All work within existing lawn and within Massachusetts Natural Heritage habitat; however, this work is exempt from Massachusetts Invasive Species Act (MISA) review. All areas will be restabilized with landscape activity.

Golding – Asked what a microfast system is.

Staff All A/I systems use different process to remove nitrogen; microfast is one of the older processes.

Recommend issue as Positive 2A confirming the resource area and Negative 3 for work within the buffer.

Motion **Motion to Issue as a Positive 2a and Negative 3.** (made by: Beale) (seconded)

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

3. Loren E. Brock – 8 Ackermuck Way (41-618)

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

Discussion (7:52) **Rits** – This is to reestablish a wetland line previous established for work on abutting properties. Feel there has been no creep of the wetland upslope. Not requesting work at this time.

Staff We've looked at this site; we have some concerns the site might contain a vernal pool in the middle of the wetland. It looks like there's a pool within the wetland that holds water year-round; it's probably more of a pond than a vernal pool.

Recommend Positive 2A confirming resource area.

Motion **Motion to Issue a Positive 2A.** (made by: Golding) (seconded)

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

D. Certificates of Compliance

1. Trevor R.P. & Margaret Ann B. Price – 10 Long Pond Drive (59-24) SE48-3223 (Cont. 10/15/2020)

2. Nancy(Colson) Seaman – 9 Hallowell Lane (30-14,15 & 257) SE48-2916 (Cont. 10/15/2020)

3. Guy B. and Diane P. Snowden – 119R Eel Point Road (33-17.1) SE48-2959

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

Staff Agree that it is in compliance but recommend ongoing Conditions 19&20 requiring removal of connecting pieces.

Representative Paul Santos, Nantucket Surveyors

Discussion (7:57) **Santos** – For seasonal beach stairs within an easement over their property; lower stairs were not necessary. They are in place for compliance.

- Motion **Motion to Issue with on-going Conditions 19 & 20.** (made by: Topham) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 4. John J. Moller – 10 Monomoy Creek Road (54-54.2) SE48-3258
 5. Monomoy Creek Road Nominee Trust – 12 Monomoy Creek Road (54-54.1) SE48-3259
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Staff Given Special Condition 23 required plants be surviving and in place, they have met the conditions of the permit through Special Condition 23. Monitoring is to continue. Recommend partial issuance for compliance of SC 23.
 Representative Brian Madden, LEC Environmental
 Discussion (8:00) **Madden** – For restoration of unauthorized cuttings. Naturally regenerating Sassafras saplings have been flagged to ensure they weren't harmed. Monitoring is required under Condition 23.
 Motion **Motion to Issue partial certificates for compliance with Special Condition 23 for both properties.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
E. Orders of Condition
 1. Nantucket Island Land Bank – 101 Miacomet Avenue (81-149) SE48-3322
 Sitting Erisman, Golding, LaFleur, Topham, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff Condition 22 requires a report with photos.
 Discussion (8:04) **Phillip** – Clarified we want annual photographs and reports.
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Erisman, Golding, LaFleur, Phillips, and Topham-aye. *Engelbourg recused
 2. Nantucket Conservation Foundation - Windswept Bog, Barnard Valley Road (25-38) SE48-3329
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff Reviewed conditions addressing the use of the herbicide and the reporting requirements. Condition 23 addresses survival rate of native species or supplementing the area in the event they do not.
 Discussion (8:10) 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. BSS Hummock Pond, LLC & Hummock Pond Holdings, LLC – 287/289 Hummock Pond Road (83-4;39) SE48-3320
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff Included requirement for photos of restoration of area where house is being removed and standard pool conditions. Condition 24 covers removal of any debris appearing in the bank; will add it must be removed within 21 days.
 Discussion (8:11) **Erisman** – Asked if we need to put a time-limit on that removal.
Golding – Erosion is misspelled in Condition 24.
Engelbourg – Noted a typo in Condition 19.
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 4. Oak Hollow Realty Trust – 12B Oak Hollow Lane (56-128.2) NAN-132
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff The only previous condition was material stored outside the setback; didn't add anything.
 Discussion (8:15) None
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 5. Paul C. Shepard – 41 Nonantum Avenue (87-41) SE48-3333
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff Has additional Finding 2 regarding the location of the well and covering the running of the line to the house.
 Discussion (8:16) None
 Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
 Roll-call Vote Carried unanimously//Beale; Engelbourg; Erisman; Golding; LaFleur; Phillips; Topham-aye
 6. Nantucket Electrical Company – 1 Candle Street (42.3.1-37) SE48-3334
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of conditions.
 Staff Will add Condition 19 that all plantings must be native species, no cultivars. Condition 20 requiring the fence be designed and installed so as not to restrict the flow of flood waters.
 Discussion (8:17) None
 Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried unanimously//Beale; Engelbourg; Erisman; Golding; LaFleur; Phillips; Topham-aye

F. Public Hearing

1. Amendment of the Town of Nantucket Conservation Commission Wetland Protection Regulation

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
Documentation Draft Fine Structure.
Public Speakers None
Discussion (8:20) **Erisman** – The idea is to look at draft for fines.

Carlson – The concept we put forward is rather new; Town Counsel is doing a review, which is not yet complete. We should continue this and wait for George Pucci’s ruling on the fines.

Golding – That leads us to the changes to the actual regulations; he sent in his recommendations.

Carlson – Performance Standards review will take longer than enforcement.

Erisman – Her goal for the rest of the regulations was to start those in October; she wants to get the fine structure in place as soon as possible.

Engelbourg – Violations related to unpermitted tree removal, his recommendation is to have stiffer fines for mature trees. Agrees we need to get fines updated as soon as Town Counsel provides their comments.

Topham – He’d like to see what comments came in once the draft was sent out.

Carlson – Once he gets Town Counsel’s comments, he’ll send those out

Motion Continued to September 3rd.

Roll-call Vote N/A

G. Other Business

1. Approval of Minutes 08/06/2020:

Motion **Motion to Approve.** (made by: Golding) (seconded)

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

2. Discussion of SBPF – 77-122 Baxter Road SE 48-1659; SBPF – 65-67 Baxter Road SE48-1602

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

Staff **Carlson** – Waiting for Town Counsel to provide information on property owner responsibility and applicant responsibility. We’ve been trying to get definitive information from the sand providers but haven’t; it’s concerning that the vendors can’t verify the tickets we got from NETCO.

Discussion (8:28) **Golding** – He’s shocked they didn’t keep copies of the sand-delivery tickets. We’ve looked through reams of printout for SBPF. Surely the same system is used for NETCO as SBPF.

Erisman – SBPF and NETCO had different conditions regarding sand delivery. It’s concerning there is no record.

Phillips – They are responsible to report and aren’t providing the data. There should be some responsibility held by SBPF or the property owners. This is completely bizarre.

Golding – Hypothetically, if someone has a bad attitude toward the commission, asked if Town Counsel can subpoena their records.

Carlson – The parties had different opinions as to who was responsible; once Town Counsel rules they have equal responsibility, we can issue out the request.

Erisman – Confirmed NETCO has not been doing any work.

Motion Continued to September 3rd.

Roll-call Vote N/A

3. Reports:

- a. CRAC, Golding: nothing.

- b. CPC, Topham: had first meeting with presentations on how CPC money has been used.

- c. NP&EDC, Phillips: first FY2021 meeting.

- d. Polpis Harbor, Beale: nothing

4. Commissioners Comment

- a. None

5. Administrator/Staff Reports

- a. Comments on regulations have already been sent to commissioners.

H. Adjournment

Motion **Motion to Adjourn at 8:38 p.m.** (made by: Golding) (seconded)

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

Submitted by:

Terry L. Norton