



CONSERVATION COMMISSION PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Thursday, September 17, 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 5:03 p.m. by Ms. Erisman

Staff in attendance: Jeff Carlson, Natural Resources Director

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

Agenda adopted by unanimous consents

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

1. Burton Balkind – Regarding 287/289 Hummock Pond Road, at the last hearing for this, ConCom was going to do a site visit regarding a pool within 100 feet of the resources area. Asked that staff or the commission visit the site again due to the recent erosion, which shifted the resource area.
Carlson – Their intention is to first deal with the emergency house move; once the area stabilizes, there are a lot of elements that will have to be shifted. They will have to amend the Order of Conditions or do a whole new NOI. There is also a revocation process for the permit.

II. PUBLIC HEARING

A. Notice of Intent

1. Eli Zabar – 47 Squam Road (13-22) SE48-3253 (**Cont. 10/15/2020**)
2. The Town of Nantucket – 34 Washington Street (42.2.3-2) SE48-3300 (**Cont. 10/01/2020**)
3. The Town of Nantucket – Pier – 34 Washington Street (42-2.3.2) SE48-3332

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

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

Representative Charlie Gibson, Deputy Police Chief
Christine Player, Project Manager Foth
Scott Skunick, Foth

Public None

Discussion (5:14) **Player** – This is for replacement of the Town Pier floating dock system. The floating docks can’t be warranted against storm damage without further protection; extending north side breakwater 100 feet. The existing dingy dock is an unauthorized structure; we plan to install piles to make it a secure and an authorized structure. Resource is land under the ocean; there is eel grass present so did an eel-grass survey.

Golding – Asked if they anticipate tidal scarring or other negative reflective effects.

Player – No. The tidal fencing is not embedded so won’t change the movement of waves and water.

Golding – Regarding the 50-year service life, asked if that is guaranteed.

Skunick – The life span is directionally proportional to the steel corrosion rate. These are designed to survive a 100-year event and designed to perform its function for 50 years.

Beale – He’s not sure what a fixed-house wave attenuator is.

Skunick – An attenuator doesn’t reduce the wave velocity 100% as a jetty or stone groin would.

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

4. 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, L.P.
 Dan Wells, Goddard Consulting
 Don Bracken, Bracken Engineering

Public None

Discussion (5:28) **Bailey** – The commission expressed concern about rebuilding the bulkhead; we are withdrawing any work on the bulkhead from the project. That leaves the relocation of the cottage, currently located within 12 feet of the coastal bank, to outside the 25-foot buffer and adding a new structure outside the 25-foot buffer. The 1st floor would be elevated to elevation 11 on a pile foundation with breakaway panel. We will also remove a knotweed stand. There would be no adverse impact to the coastal bank or coastal dune. Noted ConCom approved a similar proposal for a structure on Hulbert Avenue. Submits the subdivision of the property is not within ConCom jurisdiction; the commission should focus on reduced the amount of structure within the 25-foot setback.

Erisman – It is easier to review a revised plan without the bulkhead work in order to help the Commission with making a decision.

Engelbourg – An unknown is still the percentage of change within the 50-foot buffer between existing conditions and the relocation of the structure as well as construction of the new structure.

Bracken – The percentage of change within the 50-foot buffer is 4%.

Golding – He gets the point about the Hulbert Avenue approval; however, that was within an existing footprint on a lot not being subdivided.

Bailey – The underlying lot structure and ownership is not a ConCom issue; your issue is the impact to the resource area. Contends the impact is much less and the commission should focus on the totality of the impact.

Engelbourg – He wants to see a better plan before making a decision. At the last meeting, Mr. Bracken talked about the roof infiltration system; he'd like to see a cross section and drawing of that. Asked if the bulkhead will be removed or no work done at all.

Bailey – No work will be done on it. The sand builds up and provided protection to the property; in a discussion with the engineers, we decided we can do without it.

Beale – His concern is the house as it exists; it should be restored/rebuilt in the same location under the grandfather restrictions. We have an opportunity now to make this conform to outside the 50-foot buffer.

Bailey – What we're doing improves the situation. If they don't go forward, the existing encroachment will continue.

LaFleur – He likes that we are getting this out of the 25-foot buffer with a substantial reduction within the 50-foot buffer.

Phillips – The one we approved on Hulbert Avenue, the net benefit for that was clear because the new dwelling was lifted with breakaway panels. This is different because that is not the only thing going on here.

Bailey – Pointed out that a requirement for the Chapter 91 license to work on the site, there must be public access along the east side of the property. Over time, the Department of Environmental Protection (DEP) will require additional public access to the beach for other properties in this area.

Topham – Asked to have the revised plan memorialized. The piers are a better solution in this area; likes that the building is being lifted onto a new foundation.

Erisman – She agrees with many about the new dwelling on the new east lot; it should be completely outside the 50-foot buffer. This proposal increases structures 150% within the 50-foot buffer. The regulations refer to "change" within the area.

Golding – Asked for clarification of the Chapter 91 access – does it depend upon the position of the structure.

Bailey – No it doesn't; 80% to 90% of the site is subject to Chapter 91.

Carlson – R.J. Turcotte, Nantucket Land Council (NLC), Inc. Said new data has become available and asked the commission to make a decision in harmony with the Coastal Resiliency Advisory Committee (CRAC).

Ann Taylor commented she doesn't see anything about public access to the water line; in a large flooding storm, the yard is filled with water.

David Stinnett, owner, asked where Ms. Taylor lives and what impact this has on her.

Erisman – The existing foundation is so decrepit, she doesn't know if it functions as it should.

LaFleur – Even though the foundation is suspect, it impeded tidal flow. This would be a much better situation regarding flood water flow.

Golding – Asked what the subsurface would be.

Bracken – A crush-stone base under the house; it can be developed to deal with roof runoff - that can be included onto the plan.

Erisman – Asked if a crush-stone fill is allowable in a flood zone. She's concerned the alterations will impact the dunes.

Engelbourg – Wants to know if there is an alternative way to deal with runoff such as using vegetation to absorb runoff.

Bracken – We have to provide the stone base; we can also create vegetated areas to absorb runoff. Further discussion about the stone base and if it will cause any issues to the resource areas.

Carlson – Mr. Turcotte said the 45 Hulbert raise/reconstruction was an in-kind construction without change to the footprint.

Topham – Doesn't think the piers in totality will be any different than the existing garage in the northwest corner.

Golding – Asked if the Chapter 91 public access would be direct to the water.

Bailey – The property goes to the low-tide line. One thing required for a new Chapter 91 license is public lateral access which would bring the public to the high-water mark; the public then has the right to walk between the high and low tide lines. Asked for a 2-week continuance.

Staff The 50% change within the buffer is for a bordering vegetated wetland. It's good to have the total change on the plan of record.
Chapter 91 doesn't contemplate the position of the resource area. The historic coverage is 80% to 90% of this lot and activity on the seaward side of that line.
They are not allowed to impact flood storage capacity. The vertical volume isn't being raised.

Motion Continued to October 1.

Roll-call Vote N/A

5. Nantucket Point of View, LLC – 9 Lincoln Avenue (30-137) SE48-3278

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
Sarah Alger, Sarah F. Alger P.C.

Public Steven Cohen, Cohen & Cohen Law P.C. for property owners of 11, 13, and 13A Lincoln Avenue, and at 22, 24, and 26 Jefferson Avenue.
Scott Smyers, for 11 Lincoln Avenue Peter McLaughlin

Discussion (6:05) **Madden** – Reviewed the project; summarized supplemental information. Reviewed the resource areas: a policy coastal bank and land subject to coastal storm flowage. The foundation will be slab on a gravel bed; footings will be within groundwater so requires a waiver and dewatering. Contends long-term net benefit. Will submit monitoring reports regarding mitigation of invasive species.
Erisman – She is uncomfortable about this structure and replantings; wants to see a planting plan before the boathouse is constructed.
Beale – Asked if this will be a dwelling under our definition; if it's a boathouse with habitable space, that is different than a real boathouse. Asked why they didn't place it on the hill.
Madden – This is a second dwelling. The alternative analysis indicated the area to the southwest has geothermal wells and drainage structures.
Engelbourg – The planting plan states the plants are all native to Nantucket; however, six plants are not native to the Island and some aren't even native to the U.S. The planting plan needs to be better thought out to have solely Nantucket native species. The proposed structure meets the regulations as a non-water-dependent structure; the applicant needs to reevaluate the waivers for being within the 50-foot buffer and 2-foot separation. He'd like more information on the specific locations where the soil tests were taken.
Madden – The soil tests came from the central area of the property. The variation on the property as to direction of run-off varies. The lower lawn has been there since 1938.
Engelbourg – The resource area listed as an isolated vegetated wetland should be double checked; it might be a bordering vegetated wetland.
Madden – Looking at the aerial photos; what looks like channels are actually deer trails.
Topham – Likes the phasing of work on the bank; wants that to start before the garage is built. The structure will be around 28 feet tall. On the architectural drawings, it looks like the boardwalk meets with the living space above the garage meaning it would be elevated 9 feet.
Madden – He'll get back on that.
Phillips – Going back to the placement of the new structure replacing the existing garage, it was hard to see what the alternatives might be. She'd like to see a more robust alternative analysis. She wants it clarified that this is in fact a dwelling and wants to know how it will look in the space. Our jurisdiction is not only the resource areas but also the view shed.
Madden – The March material provided more details on the nature of the structure. The site line of the coastal bank is unobstructed.
Phillips – Reiterated her desire for a more robust alternative analysis – more specificity about what was looked at.
Beale – Pointed out that a second dwelling must have a common access to the main house so will have to be reviewed by the Planning Board.
Engelbourg – At the top of the proposed stairs, there is a retaining wall; asked what the purpose of that is.
Golding – The drawing of the proposed dwelling doesn't indicate it is in a flood zone.
Madden – Trying to reestablish the upper portion and will use biodegradable erosion blankets. The structure sketch was done a few years back that didn't take into consideration what is need for building in a flood zone.

Golding – With the lack of the flood zone information and the architectural drawings, you are asking us to approve an “pretend” structure. The boathouse should be removed from the application.

Carlson – R.J. Turcotte, Nantucket Land Council, Inc. said the commission doesn’t have enough information; LEC doesn’t specify where sediment is located; agrees the wetland to the east is a bordering vegetated wetland.

Cohen – There is a reasonable alternative to building within the 50-foot buffer; there is plenty of space up the hill outside both the 50- and 100-foot buffers. This is not a boathouse but a dwelling; the commissioner doesn’t allow a new dwelling within the 50-foot buffer. Also, there are no proper plans for the structure. The testing data is significantly different from testing done on the abutting property a couple of feet away; that should be confirmed by the 3rd party before granting the separation from groundwater waiver. He questions the net benefit because they are denuding the bluff in order to revegetate it. The second dwelling requires Planning Board approval; this application was submitted without Planning Board approval especially for the second curb cut. Part of the mitigation is shown on the abutter’s property; they don’t have permission for that. This doesn’t meet the basic standards for moving forward with a decision.

Smyers – His main concern is depth to groundwater. Asked about the soil profile. Suggested meeting out there to dig a test hole in the presence of someone from ConCom. Thinks the soil will be relatively similar throughout the area. There was talk about the flood zone and the structure; asked how it is elevated and if it has flood vents.

Erismann – We asked for more detail on that. Asked if staff could confirm the groundwater. We should schedule for staff to check the groundwater.

Topham – Asked what time of year the water was tested; you can get varying grades of water based upon the season and tide.

Alger – On the label of the structure, we’ve never pretended this was a water dependent use. It might not be approved as a second dwelling, but it could be an office or study. Disagrees about the parking requirement. It is similar to 72 (or 68) Monomoy Road with a similar situation of a policy coastal bank. She’s happy to have Mr. Madden work on the testing.

Golding – This is not a boathouse; it is a storage place in which a boat might be placed. Further discussion on the label of boathouse.

Phillips – It was mentioned the location for this was chosen for convenience; that is not relative to an alternative analysis.

Madden – Asked for a 2-week continuance.

Staff Staff will work with the applicant to schedule a soil test with staff present. In reevaluating soils, we are looking at other characteristics of the soil.

All we are concerned about is that the record indicates it is non-water-dependent structure.

Motion Continued to October 1st meeting.

Roll-call Vote N/A

6. *Jeffrey H. Johnston – 131 Wauwinet Road (12-5) SE48-3338

Sitting Erismann, 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 (7:04) **Madden** – The entire property is coastal dune and barrier beach with intermittent wetlands. This is for construction of a 10X20 parking area within a highly fragmented portion of the dune. Area of work will be encompassed by a silt fence and parking enclosed in a small berm to mitigate runoff. An elevated Fibergrate boardwalk will go through the vegetated wetland and portion of the coastal dune. Explained mitigation for work through the wetland. The project is designed to avoid impact to the resource areas. The driveway material will be pervious with no edging or hardened features.

Golding – The plan says any boardwalk exceeding 30 inches might require a handrail. Asked for confirmation it will not get that high.

Madden – It’s proposed to be no more than 18” off grade.

Erismann – Her concern is that the Trustees are asking people to air-down farther down the road; she’s concerned they will air-down here and widen the mouth of the driveway.

Madden – We don’t want people pulling in there; we can look at signage and other measures.

Carlson – Burton Balkind noted this area floods during high-water events; asked if that has been considered.

Madden – We are not proposing anything that will restrict infiltration.

Staff The handrail is a standard note engineers put on a plan to cover themselves.

A seasonal post with chain would be okay; it can come down off-season; he doesn’t think it can be conditioned.

Have everything needed to close.

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

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

7. Nantucket Island Land Bank – 35 Almanack Pond Road (46-7.1) SE48-3317 (Cont. 10/01/2020)

8. *Tina Eger McGoldrick Trust – 33 Quidnet Road (21-27.2) SE48-3327

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 (7:14) **Haines** – The haven’t heard from Massachusetts Natural Heritage. Resource areas: isolated pond and associated wetland and bank. This is for a new driveway; the plans will be revised to reflect Massachusetts Natural Heritage concerns. Closest point of driveway to the bordering vegetated wetland is 40 feet; no waivers are required. Existing vegetated buffers will be maintained. They are not planning on ripping out the old driveway at this time.

Golding – If they want to put in a new driveway, the asphalt should be removed; thinks that would be a distinct benefit.

Haines – He will bring that up with the applicant and the abutting property owner. Asked for a 2-week continuance.

Staff The area of asphalt is outside our jurisdiction.

Motion Continued to October 1st meeting.

Roll-call Vote N/A

9. *Emeritus Ltd – 73 Baxter Road (49-27) SE48-3339

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 (7:20) **Haines** – This is to relocate and renovate an existing garage within the buffer to the top of bank to ‘Sconset Bluff. It is outside the 50-foot buffer, so no waiver is required. There will be minor regrading and landscaping around the structure.

Golding – Asked the construction date of the garage and if moving it removes any protection.

Haines – He doesn’t know the date. The house was moved forward away from the bluff.

Erisman – Doesn’t think it is wise to be adding a structure closer to the edge of the eroding bluff.

Staff The garage is circa mid-1990s. Besides, moving it would void any pre-1978 qualifications.
 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

10. *Mary Jo Buckland – 113 Hummock Pond Road (546-59) SE48-3330 **(Cont. 10/15/2020)**

11. *Abramson – 80 Millbrook Road (40-79.1) SE48-3340

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 (7:28) **Rits** – This is for construction of a retaining wall, pool, and secondary dwelling outside the 50-foot buffer to a bordering vegetated wetland. Proposing an elevated Fibergrate boardwalk through the wetlands.

Golding – He would like to see elevations of the grading work within the 50-foot buffer to know what it entails.

Carlson – R.J. Turcotte, Nantucket Land Council, Inc. – Nantucket Land Council is concerned about disturbance in this area and they don’t believe 3.02(B)(1) performance standard is being met. Much of this area is native and priority habitat; 50% of the area must not be altered and the applicant must demonstrate that on a plan.

Rits – We can provide an exact calculation. We have approximately 60% to 65% native vegetation within the 25- and 50-foot buffers. The clearing has been maintained in its condition since the 1980s. Asked for a 2-week continuance for Massachusetts Natural Heritage review.

Staff None

Motion Continued to October 1st meeting.

Roll-call Vote N/A

12. *New England Development – Commercial Wharf (42.2.4.3-Variou) SE48-3342

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
- Representative Katherine Barnicle, Sr Wetland Scientist A.E. Com
Mike Duffy, New England Development
Richard Beaudette, Vaughan, Dale, Hunter, and Beaudette P.C.
- Public None
- Discussion (7:36) **Barnicle** – This is similar to work permitted on Old South Wharf; replacement in kind of corrugated sheeting and finger piers extending to the north. The resource areas: land subject to coastal storm flowage, land under the ocean, coastal bank, and land containing shellfish. Submitted NOI to Division of Marine Fisheries (DFM) and received a comment back; we will be getting an Army Corps of Engineers (ACE) permit to do the work. DMF referred to restrictions regarding the spawning winter flounder; will place a turbidity curtain. Installation will be by vibratory hammer with work from the upland and barges. The barges won't be placed where they can be grounded at low tide. Reviewed in detail all the work being done and construction method.
Golding – Asked if the ACE fee is substantial. He didn't realize flounder spawned in the harbor. Asked about the angled pile.
Barnicle – The land under the ocean impact fee is around \$10,000 range; explained how the fee is used to reestablish shellfish beds and eel grass beds. There is habitat for flounder spawn areas in the harbor. Angled pile will be on the eastern side only; explained angled pile.
Duffy – Typically a bulkhead system has the sheeting then an angled tie-back at a 45-degree angle deep into the earth; we can't do that on that side.
Topham – Petrel Landing will get an upgrade; asked if the wall be tied into that. Asked if the tie-backs are impact hammered in or helical screws.
Duffy – He's not positive on how the angled tie-backs are anchored. Regarding Petrel Landing, we are going only to the property line at this point.
LaFleur – When we did North Wharf, we drilled anchors diagonally behind the bulkhead. He's surprised they are using a battered wooden sheet.
Phillips – With regard to the property, Town has had trouble in the past when projects aren't well coordinated. Asked if they are in touch with all the abutting property owners.
Duffy – We've done outreach and spoken to abutters. The new sheeting will be placed directly in front and tied back and be at the same height. The design is to have minimal impact on abutting properties.
Phillips – The fact plans are specific regarding taking resiliency into account, she was very glad to see that.
Engelbourg – Harbors and estuaries provide habitat or spawning fish; this area would be suitable.
Erisman – She recalls conversations about potentially contaminated soils at Petrel Landing; she's concerned that if Meridian House soil is excavated, it might be contaminated.
Topham – Cited a worksite he was on where oil rose to the surface of holes. He is certain there will be oil.
Barnicle – The turbidity curtains should catch anything from getting out of the work area. If it happens, we'll take care of it.
LaFleur – He drove the sheeting on the abutting property; there was very little issue with oil.
Staff Contamination is contained to the Tank farm and Electric Company land.
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
- 13. *Ruth Connor 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 Ph.D., co-owner
- Public None
- Discussion (8:07) **Santos** – Resource areas are land subject to coastal storm flowage and an isolated vegetated wetland. There is an LEC Environmental report in the submittal. This is to relocate a house from 60 Walsh Street onto this property and relocate an existing garage from the Walsh Street side to the Hulbert Avenue side. The relocation site of the house is into a previously disturbed area and within buffer to the isolated vegetated wetland. This has been approved by the Planning Board including a second curb cut; also have Historic District Commission approval. The house 1st floor must be place at elevation 8.5. Reviewed the benefit analysis. Reviewed the planting plan for the reclamation of the 25-foot buffer. Requesting a waiver for work within the 50-foot buffer.
Beale – Asked why the house isn't being sited to take it more out of the 50-foot buffer.
Santos – Must maintained the 10-foot separation between the houses and to protect an existing cherry tree.
Phillips – It is really good to see this kind of recycling of a house.
Topham – Asked where the split rail fence will go.
Santos – It will be placed about 8 feet away from the 25-foot buffer for additional protection.

Staff Clarified that recessing the stairs was to minimize intrusion within the 50-foot buffer. 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 Order 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.

Public None

Discussion (8:29) **Blackwell** – This was continued for a landscape plan. Unfortunately, the landscape designer has not yet completed the plan. Mr. Carlson included the condition that no construction will commence without submission of the landscape plan.

Staff We had a lot of suggestions for conditions; suggested closing the hearing then discuss the draft order and vote on that.

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

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

Documentation Draft Order

Staff Specific conditions for this are Conditions 22 through 36; reviewed those conditions.

Discussion (8:33) **Golding** – The conditions are very comprehensive.

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

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

2. Trevor & Margaret Price – 10 Long Pond Road (31-631) SE48-3223

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

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (8:37) **Madden** – This is to add solar panel arrays in a field abutting the property within the 50-foot buffer to a wetland.

Staff None

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

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

3. August Pointe, LLC – 7 Walsh Street (42.4.1-55) SE48-3120

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

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

Representative Jeff Blackwell, Blackwell & Assoc.
Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP

Public None

Discussion (8:40) **Blackwell** – There were some minor departures from the original Order of Conditions; reviewed those differences.
Topham – Asked how the patio was laid (in cement).
Have everything needed to issue.

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

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

4. Heydt – 20 Western Avenue (87-74) SE48-3282

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

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

Representative Jeff Blackwell, Blackwell & Assoc.

Public None

Discussion (8:43) **Blackwell** – This is to convert a brick patio into a wooden deck and convert the trash bin to a small shed for storage of equipment and to attach the shed to the house.
Golding – Asked about rain run-off on the stone patio.
Blackwell – The bluestone patio is proposed to be dry-laid, but he doesn't expect it to be constructed. An appropriate condition to add would be that the patio is pitched east-west to direct runoff to the lawn, not the coastal dune.

Staff Will add the condition pitching the patio.

Motion **Motion to Close and Issue as amended.** (made by: Beale) (seconded)

Roll-call Vote Carried 6-0/Beale, Engelbourg, Erisman, Golding, LaFleur, and Phillips-aye; Topham recused

5. Netore, LLC – 34 Dukes Road (56-187) SE48-3196

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 (8:51) **Blackwell** – We are proposing slight adjustments to the house. House will be pulled about 1 foot away from the wetland boundary and add a porch on the west side outside the 50-foot buffer. A future pool will also be pulled away from the wetland.
 Staff Have everything needed to close and issue.
 Motion **Motion to Issue the amended order.** (made by: Phillips) (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. Nantucket Memorial Airport – 33 Squam Road (21-1)

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Kevin Grant, Federal Aviation Administration (FAA) Environmental Engineer
 Public None
 Discussion (8:53) **Grant** – This site is the outer marker for Runway 24; the technology is outdated, and we are looking to dispose of the facility. It is within the buffer to a sub-swamp wetland. Runoff created will be controlled. Work would be with one small excavator and maybe 2 workers and take about one day.
Topham – Asked what will happen to the land.
Grant – We plan on letting the native vegetation to grow back; what happens to it is up to FAA Realty Department.
 Staff Recommend Negative 3 allowing the work.
 Motion **Motion to Issue with a Negative 3.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. Daniel W. & Linda C. Cummings – 36 Crooked Lane (41-330)

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 (8:58) **Gasbarro** – This is to clarify an NOI is not required to finish the driveway, install a split-rail fence to maintain the 25-foot buffer, and a planting plan.
Engelbourg – The planting plan has a Festuca Ovina, which is non-native; asked that be stricken.
 Staff Recommend a Neg 3 and strike the Festuca Ovina from the planting plan
 Motion **Motion to Issue as modified.** (made by: Golding) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

D. Certificates of Compliance

1. Silver Fox Partners Real Estate, LLC – 235 Madaket Road (59.4-364) SE48-3121 (Cont. 10/29/2020)
2. E. Garrett Bewkes, III – 67 Squam Road (13-14) SE48-2836
3. E. Garrett Bewkes, III – 67 Squam Road (13-14) SE48-2940

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Staff Concur with that assessment.
 Discussion (9:02) **Gasbarro** – Work for the foundation under SE48-2836 did not occur. Work is substantially in compliance.
 Motion **Motion to Issue both SE48-2836 and SE48-2940.** (made by: Topham) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

4. Arthur I. Reade, Jr. Trustee – 47 Monomoy Road (54-295) SE48-2843

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative Paul Santos, Nantucket Surveyors
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Staff Work is in compliance. Recommends carrying forward the pool conditions.
 Discussion (9:04) **Santos** – Work is in compliance.
 Motion **Motion to Issue with on-going conditions relating to the pool.** (made by: Topham) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

5. Beach Nut, LLC – 1A Crow’s Nest Way (12-24) SE48-2895

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative Paul Santos, Nantucket Surveyors
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Staff Recommend issue with on-going Condition 19 regarding discharge of the Pool and Condition 21 requiring lights aimed down
 Discussion (9:06) Santos – Work is in compliance; it has a pool.
 Motion **Motion to Issue with ongoing Conditions 19 & 21.** (made by: Phillips) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

E. Orders of Condition

1. The Town of Nantucket – Pier – 34 Washington Street (42-2.3.2) SE48-3332

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Asked if there are any requests. He will type up something for this for approval at the next meeting.
 Discussion (9:08) No specific requests
 Motion No motion at this time.
 Roll-call Vote N/A

2. Jeffrey H. Johnston – 131 Wauwinet Road (12-5) SE48-3338

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Photo monitoring conditions and Condition 21 requiring a berm to direct runoff away from the resource area. Will add Condition 19 requiring photo monitoring of the driveway area.
 Discussion (9:08) Engelbourg – We talked about signage to keep people from pulling off to air-down.
 Golding – Noted a spelling error. He doesn’t support signs and chains; people will drive over it.
 Erisman – The airing down has become an issue and the Trustees are encouraging airing down in that area. Suggested a condition that if there is destruction within the next 3 year they come in to fix it.
 Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

3. Emeritus Ltd – 73 Baxter Road (49-27) SE48-3339

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Called out Finding 2 that the garage is not pre-1978 structure.
 Discussion (9:13) 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

4. New England Development – Commercial Wharf (42.2.4.3-Variou) SE48-3342

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Asked if there are any thoughts or concerns outside the turbidity curtains.
 Discussion (9:15) None
 Motion Continued to October 1st meeting
 Roll-call Vote N/A

5. Ruth Connor Baltzer 66 Hulbert Nominee Trust – 66 Hulbert Avenue (29-55) SE48-3341

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff Condition 10 all material outside the 50; native plants and yearly photo monitoring.
 Discussion (9:16) 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

F. Public Hearing

1. Amendment of the Town of Nantucket Conservation Commission Wetland Protection Regulations (**Cont. 10/01/2020**)

G. Other Business

1. Approval of Minutes 9/3/2020:

Engelbourg – The date on the minutes should be September 3, 2020.

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. Discussion of SBPF – 77-122 Baxter Road SE 48-1659; SBPF - 65-67 Baxter Road SE48-1602 (**Cont. 10/01/2020**)

3. BSS Hummock Pond, LLC & Hummock Pond Hold, LLC – 287/289 Hummock Pond Road (83-4:39) SE-3320

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Speakers We will back on the site tomorrow to ensure the house and material are being removed; they will be back with amended permits.
 Discussion (9:19) Erisman – At some point will have to figure out the steel wall up the beach.

4. Reports:
 - a. CRAC, Golding
 - b. CPC, Topham
5. Commissioners Comment
 - a. Topham – Likes the list of representatives for applications.
 - b. Engelbourg – September is Preservation Awareness Month.
6. Administrator/Staff Reports
 - a. The MAT Conference this fall is all on line and spans a week; let us know if you want to sign up.
 - b. 2021 Meeting Schedule: Probably remoting through the rest of this year and into the next; leaving meetings on Thursday, which allows us to shift our filing deadlines. The means we only have to advertise once and thus cut the cost of the fee. Changing the fee requires a regulatory change. Putting together a comparable fee study.
Golding – We put something together about 5 years ago to increase fees to cover the cost of an enforcement officer. It sounds as though that wasn't implemented. Asked that be forwarded for fellow commissioners to look at.

H. Adjournment

Motion **Motion to Adjourn at 9:33 p.m.** (made by: Golding) (seconded)

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

Submitted by:
Terry L. Norton

PROPOSED