



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, October 1, 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

Agenda adopted by unanimous consents

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment – (see Item III.H.3.)

II. PUBLIC HEARING

A. Notice of Intent

1. The Town of Nantucket – 34 Washington Street (42.2.3-2) SE48-3300

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

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

Representative Tarja McGrail, Coastal

Charles Gibson, Deputy Police Chief

Public D. Anne Atherton, Nantucket Coastal Resiliency

Discussion (5:12) **McGrail** – This has been approved by the Nantucket Historic District Commission (HDC).

Gibson – The HDC approved the footprint with minor architectural changes. The outbuilding for emergency equipment trailer was deleted from the HDC plan; on this plan it is a pad at grade.

Carlson – Ms. Atherton asks whether or not this will be reviewed by consultant for the Coastal Resiliency Plan. The review was done prior to submission.

Staff Have everything needed to close.

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. 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 (5:17) **Bailey** – We have eliminated the plan to reconstruct the bulkhead. We recharged roof drains and adding planting beds and added 5-foot pedestrian access easement. Reminded the commission this is a relocation of an existing structure and construction of a new structure eliminating all structure within the 25-foot structure and reduced the coverage within the 50-foot buffer. The existing dune is being extended the rest of the way across to provide coastal protection rather than rebuilding the bulkhead. It is our position that this is approvable due to the reduction of structure within the buffer zones and invasive species mitigation.

Bracken – Explained the recharge zones and planting beds for roof runoff.

Beale – He met the owner and was given a tour of the property.

Golding – Asked if the public access goes all the way to the beach.

Bailey – Access will go to the beach and extends along below the high-water mark.

Engelbourg – About the extended coastal dune, the bulkhead is shown as being left; asked if that could be removed.

Wells – We understand the commission was against any activity regarding the bulkhead; it would improve things if we could restore a part of it. We are showing filling in the eroded gap with sand and beach grass.

Engelbourg – We don’t want it restored; but it makes more sense to have no bulkhead. The dune would function as a resource area and want the area to be more naturalized.

Bailey – We previously talked about removing the bulkhead would require substantial excavation. He’s believes that over time, the bulkhead will be covered as the dune fields build up.

Beale – appreciates removing any construction within the 25-foot zone; he’s troubled by the gentrification of the building within the 100-foot zone. That increases structures within our jurisdiction.

Erisman – Appreciates the new roof design leading into the planting bed. The proposed plants, however, are not salt tolerant and wouldn’t survive harbor washover. In our packet we had information comparing this to property on Hulbert Ave; she sees them as different since the other property is maintain its footprint whereas this is greatly expanding the foot print in an area of regular flooding.

Turcotte – This is a very different; it is not a raise and replace, it is a significant increase. This area is not just subject to 100-year form; this is a very vulnerable area to any hurricane.

Carlson – Anne Taylor submitted comments: Pointed out all the flooding in this area and that this seems a poor idea to build down there.

Golding – Asked if the proposed new construction they might consider even less within the 50-foot buffer.

Bailey – This is it. By removing existing foundation and raising 1st floor with breakaway, he thinks they have provided substantial improvement over the existing condition. No one has pointed to specific adverse impacts.

Erisman – The dwelling on the east property is new construction within 50-feet of a dune; that is not allowed under our regulations.

Golding – This would not be an arbitrary decision and as Ms. Erisman pointed out that new construction is prohibited in the 50-foot buffer. Allowing this would set an adverse precedent.

Bailey – It’s new, but so is 45 Hulbert Avenue; this is about the amount of work within the 50-foot buffer. Our position is we’re providing an environmental benefit which is better than what is there now. He urges the commission to look at the benefits and approve the proposal. He doesn’t think it is any different than any other time when looking at the environmental benefits for granting a waiver.

Engelbourg – One waiver provision is no reasonable alternatives; several reasonable alternatives have been proposed by the Commission. Another waiver provision is long-term benefit; he agrees there are some benefits, however, there are additional impacts that occur by increasing the amount of structure on the site.

Bracken – The proposed project doesn’t result in lost flood storage. Argues with the comment about damage from storms; this will be built to withstand the 100-year-storm flood requirements.

Wells – About the planting plan, that can be easily modified to use more salt-resistant plants. His intent was to have seven shrubs in front of each structure; the rainwater infiltration and removal of invasive species will increase the native species on the site. From the bylaws discussing adverse impacts to the resource area, feels the project set back as it is won’t adversely impact the dune or the landward or lateral movement of the dune.

Topham – This dune will keep growing; by them adding more vegetation will help the dune. The standards now for building structures now is greater than it was; that won’t be a problem. By being on piers, there will be more water storage then currently. He sees benefits to going this route; he is having concerns regarding the regulation not allowing new construction within the 50-foot buffer.

Bailey – You’re authorized to grant waivers in three circumstances: one, no reasonable alternative – not asking for that; two, resource area not in control of the applicant - not asking for that; three, long-term net benefit – that is what we are doing here.

Phillips – If there were a reason that the second dwelling had to be there, the fact that there will be additional building within the 50 is what she can’t get passed. She understands the benefits if something had been built there earlier. Appreciates concessions the applicant has made.

LaFleur – Even though it is in the 50, the elimination of the 25 and the reduction in the 50 is sufficient reason to move forward with this. If we deny this, we are left with what is there now.

Staff Have everything needed to close.

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

- 3. Nantucket Point of View, LLC – 9 Lincoln Avenue (30-137) SE48-3278 **(Cont. 10/15/2020)**
- 4. *Marica Kleinberg – 18 Quidnet Road (21-117.5) SE48-3348 **(Cont. 10/15/2020)**

5. *Robert E. Furdak – 26 West Chester Street (42.4.3-56) SE48-3345

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 (5:49) **Madden** – Resource areas bordering vegetated wetland and isolated vegetated wetland. Work is to shift driveway away from the isolated vegetated wetland and revegetate with a native seed mix; not proposing shrubs. Closer to the house will expand the parking area and remove a large, old Siberian elm which is assigned a moderate risk and outside the 25-foot buffer; native saplings will replace it. South of the dwelling there are stone patios and a spa with retaining walls, spa is outside the 50-foot buffer. Proposing to manage Japanese knotweed, cut and bag with herbicide treatment for remaining and regrowth; that would be planted with American holly. We feel there is a long-term net benefit.

Phillips – The proposed granite patio along with a porch, she wonders why the additional cover in that area; she doesn't see the benefit to the granite patio being there. Removing the knotweed is good but a permanent granite patio is not something we should support. About the Siberian elm, she wonders about the moderate risk; she values old trees and asked for other opinions.

Engelbourg – The Siberian elm is a non-native species; it was judged by a professional tree company to be a moderate risk to cars and the dwellings. He sees no reason not to remove and replace with native saplings.

Carlson – If you look under the patio, there is a substantial drop off of about 4 feet with existing steps. Most of the lower limbs have been removed and it is probably better to replace it with native habitat.

Madden – The elm has been pruned in the past and has cables shoring up large limbs. The granite patio is dry-laid pervious on an upper shelf; we aren't asking for structural waivers for it.

Golding – This house was completely rehabbed a couple of years ago and the lot regraded creating the drop off; he wonders if that has bearing on whether or not they had permission to add so much fill within the 25-50.

Madden – He worked on the original NOI in 2011/2012; there was a grade change approved and work done in compliance.

Golding – Asked how large the granite patio blocks will be and the impact to drainage into the wetlands. That area gets very soggy

Madden – Everything should infiltrate vertically naturally with no impervious material to inhibit that.

Erisman – She's thankful about moving the driveway and the revegetation. The rear of the property has a lot being added; suggested more be given back to the 25 with the grade of the lawn.

Madden – He can ask the applicant about putting in more native plants into the corner. Asked if that could be conditioned and we come back with a vegetation plan.

Carlson – The area on the southeastern corner, the knotweed is in an area that looks like it was previously disturbed; this could be conditioned to include a restoration plan to be filed once the knotweed is removed.

Erisman – Because this property is in such close proximity to the wetlands, we should put a condition on it that records on use of fertilization and lawn chemicals be submitted to the Commission.

Golding – He'd like to see a drainage system in the center of the patio to ensure that in a heavy rain it drains down. He gets the feeling a hard rain would run off into the wetlands.

Blackwell – We can add a drain into a subsurface system under the patio or off to one side.

Carlson – The could be conditioned.

Staff Have everything needed to close.

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

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

6. *Shawkemo I, LLC – 36 Shawkemo Road (27-3) SE48-3344

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 (6:10) **Madden** – This is restoration of a structure with addition of a screened porch overlapping an existing deck and addition outside the 50-foot buffer. No waivers are requested. Access is from the east side; that area would be revegetated once construction access is no long necessary.

Topham – Asked how the equipment would get in there since it is very pinched with the 25-foot buffer.

Madden – Will create a ramp down to a path between the 50-foot buffer and an existing stone wall. Past the stone wall is lawn area. That will all be revegetated. He doesn't expect any larger, heavy equipment.

Topham – Asked for some buffer that would keep vehicles and structures from straying off the path.

Madden – Asked for a 2-week continuance.

Staff This is within mapped habitat area and haven't received anything back from Massachusetts Natural Heritage.

Motion Continued October 15th.

Roll-call Vote N/A

7. Nantucket Island Land Bank (NILB) – 35 Almanack Pond Road (46-7.1) SE48-3317
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Rachael Freeman, NILB
 Taylor Donovan, NILB
 Public None
 Discussion (6:17) **Donovan** – Reviewed the proposal; we provided a vegetation plan.
Engelbourg – Asked for a link to be added to the sign leading to expanded information more about the project.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Topham) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
8. *Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Rachael Freeman, NILB
 Taylor Donovan, NILB
 Public None
 Discussion (6:22) **Freeman** – This is to permit all maintenance work around wetlands, wetland buffers, and wetland resource areas. We have not received feedback from Massachusetts Natural Heritage. One benefit is we would renew this every three years; any changes in activity would be brought to you every three years. Reviewed the type of work that recurs in wetland resource areas.
Carlson – We’ve been talking about this at the staff level for a while; it came from discussions about activities the Department of Public Works (DPW) does within resource areas. It would provide our people with something to understand how and what is being done.
Beale – Asked if this is across the board or if each property would have a set of conditions.
Freeman – we included a field maintenance guide; we could specify what goes on there. It’s challenging to do individual orders for each property.
Beale – He would anticipate other foundations might come in for a *carte blanche* without commission oversight.
Freeman – A difference is this is public land and the others are private land.
Golding – This wouldn’t be a blanket permit for the DPW. Asked where you would draw the line.
Freeman – We would be restricted to activities called out in this NOI.
Carlson – This wouldn’t be any new work, that would require a new filing. This would memorialize practices on current things being maintained.
Topham – He understands this as Mr. Carlson explained it. Maintenance is necessary, and this would save them time, especially in responding to calls.
Engelbourg – He supports this though out NOI. Requested the maintenance logs come to the Commission. On the Field Maintenance Guide, the description for some items is vague. On bulkhead and boardwalk replacements, he would like those to be reviewed for more environmentally alternatives.
Erisman – Agrees with Mr. Engelbourg. Maintenance and repairs could be differentiated in respect to what requires machinery. Vista pruning has gotten the Land Bank in trouble; that might need to specific. Mowing is another concern: clearing a field versus trail maintenance.
Freeman – Agrees we need to provide more information and clarification on pruning and mowing. One issue is that people are vista pruning trees on our property; if we have ConCom permission to do limited vista pruning, the hope is that neighboring property owners will do it illegally; the Land Bank has no recourse.
Engelbourg – The ConCom has recourse against people who are pruning Land Bank trees. Suggested looking for anything considered structural need to have maintenance and repair defined. When mowing is happening, it would be good for the Commission to be informed as to why. About vista pruning, it sounds like there are established heights and views that exist that aren’t memorialized; it would be helpful for areas where vista pruning is happening to provide photos and heights.
Topham – Agrees with what Mr. Engelbourg said about people performing illegal work on Land Bank property; call us so we can issue the violation notice.
Golding – Looking at the draft proposal for scheduled violations, this brings into focus how devastating vista pruning can be; we should have a discussion going forward. Thinks Mr. Engelbourg’s suggestion is excellent.
Freeman – Asked for a 2-week continuance.
 Staff There are a lot of situations that come up when we talk with the Land Bank and try to resolve it before it becomes a full enforcement order. This proposal would help Staff in we know what they are doing maintenance-wise.
 Motion Continued October 15th.
 Roll-call Vote N/A
9. Tina Eger McGoldrick Trust – 33 Quidnet Road (21-27.2) SE48-3327 (Cont. 10/15/2020)

10. *Fourteen Mayhew Lane N.T – 14 Mayhew Lane (41-147) SE48-3349
- 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 (6:54) **Haines** – This is for an addition on a shed in the buffer to a isolated vegetated wetland on the adjacent property; outside the buffer to a bordering vegetated wetland. There will be no foundation and all within existing lawn; no dewatering necessary with minimal soil disturbance. Disturbed areas will be seeded.
- Staff We reviewed the site and the wetland delineation.
Have everything needed to close.
- Motion **Motion to Close.** (made by: Golding) (seconded)
- Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
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 (6:58) **Rits** – One main concern was maintaining 50% or greater of native vegetation within the buffers; most of the area being altered is existing lawn; 50.3% of the native plants will be maintained. Received no take from Massachusetts Natural Heritage.
- Engelbourg** – Objects to classification of the existing lawn; he conducted a site visit today. Reviewed the types of native plants he saw.
- Erisman** – Pitch Pines are a concern; asked how many pitch pines would come down because those are habitat for long-eared bats. The habitat value seems to be underrepresented in the packet.
- Golding** – He met the previous owners out there and agrees with Ms. Erisman and Mr. Engelbourg. He’d like to see a landscape photo superimposed on the plat plan to clarify what is threatened. He’s concerned with how the wetland delineation is drawn. There is room for this complex on the other side of the house.
- Rits** – In terms of the wetland delineation, there was a lot of effort to flag the plants and survey them; the plan is as accurate as it possibly can be. This project has been reviewed by Massachusetts Natural Heritage, which doesn’t feel endangered species are impacted. There are a significant number of pitch pines on the upland side of the property. All structural components are outside the 50-foot buffer and feel this is similar to many proposals outside the 50-foot buffer.
- Topham** – He thinks it is important to maintain the bat habitat; suggested putting the complex elsewhere so as not to have to remove so many trees. It’s not shown on the plan how many trees would be removed.
- Phillips** – It seems a lot of work must be done to create a flat area for the pool and dwelling, given the grade drop. It looks like the pool will be at elevation 20 and the retaining wall will be at elevation 14; we have no information about the retaining wall. The walkway has stepping stones and leads to a path which becomes a boardwalk; also, don’t have information on that.
- Rits** – We can do an inventory of pitch pines and what will be removed; we can provide additional information on the wall and pool and stepping stones.
- Engelbourg** – It’s not just random pines across the site, there’s canopy coverage, light filtration, etc. Once we know how many and which trees will be impacted, we can discuss mitigation.
- Erisman** – Source pitch pines can be an issue.
- Beale** – Asked if the applicant considered a different location than within our jurisdiction.
- Rits** – They would like to have this on the pond side for aesthetic and enjoyment reasons.
- Beale** – Asked if the existing pool will be abandoned. (Yes.)
- Golding** – Asked for a satellite overlay on the plot plan to provide a visual image of the proposal. The tennis court could also be sited outside the 50-foot buffer and possibly outside the 100-foot buffer.
- Rits** – Asked for a 2-week continuance to provide additional information.
- Staff None
- Motion Continued October 15th.
- 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 Kathrine Barnicle, Senior Wetland Scientist A. E. Com
Mike Duffy, New England Development
Richard Beaudette, Vaughan, Dale, Hunter, and Beaudette P.C.
- Public None
- Discussion (7:17) None
- Staff This was left open to put together the order.
- Motion **Motion to Close.** (made by: Topham) (seconded)
- Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

13. *46 Shimmo Pond Road N.T – 46 Shimmo Pond Road (43-77) SE48-3343

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.
 Jack Vaccaro, Epsilon Associates Inc.
 Art Gasbarro, Nantucket Engineering & Survey
 Public R.J. Turcotte, Nantucket Land Council, Inc.
 Discussion (7:18) **Bailey** – This is a reconstruction of a pier; reduced the proposal to lessen impact on land under the ocean and eel grass beds.
Vaccaro – Reviewed the proposal. No longer extending into Massachusetts Natural Heritage jurisdiction. Reviewed the study of eelgrass density in the area of the proposed dock. The area of existing dock to be removed is 19 square feet (SF); the replacement is 19 SF. Reviewed impact on the resource areas: coastal beach, land under the ocean, land containing shellfish, and eelgrass zone. Explained mitigation: protection of species, water circulation. The project meets all performance standards of the Nantucket bylaw and Wetlands Protection Act (WPA).
Gasbarro – Explained the pier design: 5 feet above mean high water, narrow, and reconfigured.
Topham – One problem is you’re not allowed to put docks into the harbor. Another problem is prop wash to the fragile eelgrass. He doesn’t think this will work and this application should be withdrawn.
Beale – He’s troubled by how they will plan to build this in while there is a moratorium against building docks on the harbor; no one has challenged the moratorium until now.
Vaccaro – It is in fact a dock and has a Chapter 91 licenses; the Department for Environmental Protection (DEP) reviewed this and consider it a water dependent use and a dock.
Bailey – Regarding the moratorium, we feel we have the ability to go forward with under the protection for pre-existing structures. We will go to the Zoning Board of Appeals (ZBA) for a special permit for this dock. There will be ample opportunity under the ZBA to discuss whether or not this is a grandfathered dock. Asked the ConCom to stick to their jurisdiction.
Phillips – Her objection is the impact on the eelgrass; it will make it difficult for eelgrass to reestablish. We need to do everything we can to maintain eelgrass. There is another dock not far away; there have been comments that there is an available and clearly grandfathered dock thus we would not be denying the applicant the ability to put a boat into the water.
LaFleur – His concern, aside from the zoning issue or the moratorium, is the very fragile resource of the eelgrass. The proposal doesn’t help with the rejuvenation of eelgrass in that area.
Engelbourg – Reviewed local performance standards and WPA which he believes this project cannot meet: Section 208(B), Section 3, Section 48(B), and CMR 10-25. The applicant has access to the waterfront and an existing mooring.
Erisman – She agrees with the fellow commissioners about the proximity to existing eelgrass when our harbor is at a critical tipping point. Allowing this would be against the regulations and resource areas we are charged to protect.
Vaccaro – He heard about the issue of the mooring ball tied to the dock; if the applicant doesn’t get a dock, he’s going to get a mooring permit. The impact of a single mooring chain dragging across the bottom is greater than this dock. Explained why he disagrees with Mr. Engelbourg regarding the three local performance standards: barge access at high tide only, there is no snorkeling, mitigation for scallops.
Golding – Referenced letter from Division of Marine Fisheries addressing consideration of construction barge, prop dredging caused by motor vessels, allowing only non-motorized vessels approaching and using the pier. Given the nature of this application and our efforts to reestablish eelgrass habitat, this project puts that in jeopardy.
Dodd – From Kevin Kuester, the Nantucket Shellfish Association strongly opposes this application.
Turcotte – The DEP guidelines for building a dock is based upon data by Burdick and Short and their work on Nantucket Harbor; Burdick wrote a letter strongly opposing building a pier in this area. Mooring are temporary and can be moved regardless of the scour. Nantucket has been slow regarding ecologically friendly moorings; when Nantucket adopts that technology, moorings will have the least impact on the ocean bottom. Nantucket Land Council was out there planting more eelgrass; hoping for a 60% survival rate. The applicant already has a pier and the neighbor’s dock. Permitting this will open a “Pandora’s Box.”
Engelbourg – Eelgrass, if allowed, can spread and restore the area within 10 years.
Topham – There is also a letter from the Harbor and Shellfish Advisory Board (SHAB), which opposes this project.
 Bailey – Asked for a 1-month continuance.
 Staff The SHAB letter is included in the packet and will be discussed at their next meeting.
 Motion Continued to October 29th.
 Roll-call Vote N/A

14. *ACK007 Properties, LLC – 46 Walsh Street (29-101.1) SE48-3346
 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 (8:01) **Gasbarro** – For a shed on piers and reconfigured walkway within land subject to coastal storm flowage.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Engelbourg) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 15. *Peter E. Halle and Carolyn B. Lamm – 24 Pilgrim Road (41-94) SE48-3347 **(Cont. 10/15/2020)**

III. PUBLIC MEETING

C. Minor Modifications

1. Norton – 24 North Cambridge Street (38-20) SE148-2765 **Withdrawn**

D. Certificates of Compliance

1. Jeffrey Johnston, TR of the Jeffrey H Johnston Trust – 131 Wauwinet Road (12-5) SE48-2201

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff For installation of tight tanks; constructed in compliance and recommend issue.
 Discussion (8:04) None
 Motion **Motion to Issue.** (made by: Beale) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. 100R Wauwinet Road Nominee Trust – 100R Wauwinet Road (11-24.3) NAN-130

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff For installation of I/A system within jurisdiction; constructed in compliance and recommend issue.
 Discussion (8:05) None
 Motion **Motion to Issue.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

3. Peter Glazer, PKG Design Build, LLC – 3 & 3A Pilgrim Road (41-612 & 613 *Lot 10e&11*) SE48-2382

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative Mark Rits, Site Design Engineering
 Staff In compliance.
 Discussion (8:06) **Rits** – For construction of retention basis within 100-foot buffer; completed substantially in compliance.
 Motion **Motion to Issue.** (made by: LaFleur) (seconded)
 Roll-call Vote Carried //Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

4. S/P Norwell LLC, c/o New England Development – Lot 3 Mariner Way (55.1.4-72) SE48-2745 **(Cont. 11/19/2020)**

5. 11 Meadow Lane, LLC – 11B Meadow Lane (41-448.1) SE48-3098

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff For redevelopment including a pool and patio; it is in compliance and recommends issue.
 Discussion (8:07) None
 Motion **Motion to Issue.** (made by: Golding) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

6. 247, LLC – 7 Walsh Street (42.4.1-55) SE48-3120

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff Issued an amended order recently; now in compliance and recommend issue.
 Discussion (8:09) None
 Motion **Motion to Issue.** (made by: Topham) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

7. 101 Baxter Road, LLC – 101 Baxter Road (48-17) SE48-1468

8. Robert Berwick & Marilyn Matz – 101 & 103 Baxter Road (48-17 & 40) SE48-1137

- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff We can take these two together. Relocation of house off the site; both are in compliance.
 Discussion (8:10) None
 Motion **Motion to Issue SE48-1468 and SE48-1137.** (made by: Beale) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

9. Price – 10 Long Pond Road (59-24) SE48-3223
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Beale
 Representative None
 Staff Did a recent amended order including solar array; now in compliance and recommend issue.
 Discussion (8:11) None
 Motion **Motion to Issue.** (made by: Beale) (seconded)
 Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Topham-aye; Phillips recused
10. Sylvia – 51 Meadowview Drive (56-389) SE48-868
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff We confirmed septic was constructed in compliance with Board of Health permit; recommend issue.
 Discussion (8:12) None
 Motion **Motion to Issue.** (made by: Topham) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
11. Sylvia R.T – 39 Meadowview Drive (56-13) SE48-29
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff From late 1970s; did our best to confirm it is compliance and recommend issue.
 Discussion (8:13) None
 Motion **Motion to Issue.** (made by: LaFleur) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
12. Calmen – 334 Madaket Road (60-141) SE48-3030
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Representative None
 Staff Seeking invalidation: no work done or proposed.
 Discussion (8:14) None
 Motion **Motion to Invalidate the Order of Conditions.** (made by: Phillips) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

E. Orders of Condition

1. The Town of Nantucket – 34 Washington Street (42.2.3-2) SE48-3300
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Draft Order of Conditions
 Staff This is for the Harbor Master building. Included a photo monitoring condition. In the overview part, he will include construction of a concrete pad; use of a porous material was a question for the public hearing.
 Discussion (8:18) **Golding** – The pad, asked if it’s necessary to draw attention there are no construction plans for the pad. Asked if the pad materials could be porous.
 Motion **Motion to Issue as amended.** (made by: Golding) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. 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 This is for the extension of wave attenuator. Included a condition about the siltation.
 Discussion (8:22) **Topham** – Mr. Bailey pointed out that this is a safety issue and that’s why it was approved.
 Motion **Motion to Issue as drafted.** (made by: Beale) (seconded)
 Roll-call Vote Carried 7-0//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
3. Kim Glowacki – 46 Easton Street (42.4.1-22) SE48-3285
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation None
 Staff Asked for a discussion to help craft an Order of Conditions.
 You will have to make findings related to the waiver request and possibly issue waivers not requested; you have the ability to decide whether or not aspects of the project meet the waiver requirements. If you are looking at a negative order, those might apply to local regulations only; we could end up with a positive order related to state regulations and negative related to local.
 He’s happy to draft two orders.
 Discussion (8:24) **Erisman** – It might be wise to see which way the commission falls: approve or deny. She is not comfortable issuing an order for this project due to new construction within proximity to a dune field.
Golding – Suggested drafting two opinions: for and against. He is completely torn. Despite the argument for a net benefit, there is new construction within the 50-foot buffer.
Phillips – Doesn’t want to approve new construction within the 50-foot buffer.
Topham – He felt we helped them craft a plan that would be beneficial; restore dune, raise houses onto piers, more water being absorb.
Engelbourg – His concern is related to local regulation rather than the WPA. He does agree there are some benefits, especially with lifting the house. He would have preferred to see more restoration work leading to a

greater net benefit. He’s still struggling to see the long-term net benefit especially with the new structure within the 50-foot buffer.

LaFleur – He thinks there are a lot of benefits here: everything is moving out of the 25-foot buffer with a reduction in the 50-foot buffer; elimination of the foundation allowing water flow. He’s concerned that the denial will result in no change.

Beale – He too is still troubled by all the construction within the 50-foot buffer and the intense use of the site within our jurisdiction. He is not in favor of this.

Erismán – We need two orders and looking at both State and local regulations.

Motion Continued to October 15th.

Roll-call Vote N/A

4. Robert E. Furdak – 26 West Chester Street (42.4.3-56) SE48-3345

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

Documentation Draft Order of Conditions

Staff Reviewed adjustments made based upon tonight’s discussion: Condition 21 regarding use of herbicide, pesticide and fertilizer; Added Condition 28 regarding draining the patio and Condition 29 requiring a filing planting plan as a minor modification.

Discussion (8:39) None

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erismán, Golding, LaFleur, Phillips, and Topham-aye

5. Nantucket Island Land Bank – 35 Almanack Pond Road (46-7.1) SE48-3317

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

Documentation Draft Order of Conditions

Staff Has a photo-monitoring condition. Suggested an additional Finding Nr. 2 encouraging linking the signage through R-codes and links.

Discussion (8:41) **Phillips** – Suggested requiring adding “QR squiggly thing” to the sign.

Motion **Motion to Approve as amended.** (made by: Topham) (seconded)

Roll-call Vote Carried 6-1//Beale, Engelbourg, Golding, LaFleur, Phillips, and Topham-aye; Erismán-nay

6. Fourteen Mayhew Lane N.T – 14 Mayhew Lane (41-147) SE48-3349

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

Documentation Draft Order of Conditions

Staff No waivers and no additional conditions.

Discussion (8:45) None

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erismán, Golding, LaFleur, Phillips, and Topham-aye

7. New England Development – Commercial Wharf (42.2.4.3-VariouS) SE48-3342

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

Documentation Draft Order of Conditions

Staff This mirrors the one for Old South Wharf with the same conditions. Conditioned siltation containment and storing materials off site.

Discussion (8:46) None

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erismán, Golding, LaFleur, Phillips, and Topham-aye

8. ACK007 Properties, LLC – 46 Walsh Street (29-101.1) SE48-3346

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

Documentation Draft Order of Conditions

Staff None

Discussion (8:47) **Phillips** – she didn’t see on the application that the shed would be on piers.

Gasbarro – It will be supported by blocks or piers on the corners; there is no full foundation.

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

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erismán, Golding, LaFleur, Phillips, and Topham-aye

F. Extension Request

1. Net Zero, LLC – Lot 2 Fisher Lane (formerly 101 Low Beach Street) (75-32) SE48-3020

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

Representative Mark Rits, Site Design Engineering

Staff None

Discussion (8:15) **Rits** – Was for a driveway, garage, and landscaping within buffer to isolated vegetated wetland. Land has been cleared but the site changed ownership. The new owner wants to continue with the previously approved work. Would like 3 1-year extensions.

Motion **Motion to Issue 3 1-year extensions.** (made by: LaFleur) (seconded)

Roll-call Vote Carried 7-0//Beale, Engelbourg, Erismán, Golding, LaFleur, Phillips, and Topham-aye

G. Public Hearing

1. Amendment of the Town of Nantucket Conservation Commission Wetland Protection Regulations (Cont. 10/15/2020)

H. Other Business

1. Approval of Minutes 09/17/2020:
Phillips – Had requested minor corrections; asked if those had been included.
Carlson – Will forward those to the Minutes Taker.

Motion (8:49) **Motion to Approve as amended.** (made by: Topham) (seconded)

Roll-call Vote Carried 7-0//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. 10/15/2020**)
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

Speakers Burton Balkind

Discussion (5:04) **Carlson** – Mr. Balkind had questions about the status of the move and clean up; some remaining debris might have caused damage to the coastal bank west of the house. We've been doing regular site inspections; the house has been moved so no emergency cert has been issued. The move was also covered by an Order of Conditions with a provision requiring removal of the exposed septic. An issue is getting access onto the beach for machinery to remove concrete.

Erisman – During the previous discussion, we had talked about removing the septic immediately; this now serves as a warning for immediate removal when on the coast like this.

4. Reports:

- a. CRAC, Golding
- b. CPC, Topham
- c. NP&EDC, Phillips

5. Commissioners Comment

a. Topham – There is a Cycle for Open Space by Nantucket Conservation Foundation to maintain trails; a virtual fundraiser over Columbus Day Weekend. The plan is next year it will be expanded to include categories for school-age competitors across the moors with proceeds going to all the conservation land owners.

b. Beale – When there is an alternative site for an applicant to move a structure outside ConCom jurisdiction, asked when does the Commission require the project be moved versus conditioning to comply with performance standards.

Carlson – On a normal site with buffers and no encumbrances and it meets the performance standards, the commission can't require it be moved. For other sites, the Commission must include specific habitats requiring extra protection; we can look at that. There has to be a very clear reason something needs protection beyond that provided by the performance standards.

Golding – In terms of wetland scenic views, asked if a pristine habitat should be given any weight.

Carlson – Wetland Scenic Views is a subjective trait; the question to be answered is if the view is of the resource area or the land upland of the adjacent resource area. You need very clear findings on why the Wetland Scenic View is being damaged from a public viewpoint.

c. Erisman – Apologized for a mess she made of the last meeting and the negative light cast upon the Commission.

6. Administrator/Staff Reports

a. Feels Ms. Erisman should have been included in the Inquirer & Mirror article about Island women in science.

b. If people are still interested in signing up for the MAT Conference, let Ms. Dodd know.

c. Thanked Ms. Dodd for all she does for Natural Resources.

I. Adjournment

Motion **Motion to Adjourn at 9:07 p.m.** (made by: Golding) (seconded)

Roll-call Vote Carried 7-0//Beale; Engelbourg; Erisman; Golding; LaFleur; Phillips; Topham-aye

Submitted by:

Terry L. Norton