



CONSERVATION COMMISSION

PUBLIC MEETING

2 Bathing Beach Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, January 28, 2021 – 5:00 p.m.

*This meeting was held via remote participation using ZOOM and YouTube,
Pursuant to Governor Baker’s March 12, 2020 Order Regarding Open Meeting Law*

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), David LaFleur, Joe Topham, Seth Engelbourg, Maureen Phillips, and Mark Beale

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

Staff in attendance: Jeff Carlson, Natural Resources Director; Joanne Dodd, Natural Resources Coordinator

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

Late Arrivals: LaFleur 5:07 p.m.

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

Carlson – D. Anne Atherton asked when there will be an update on the SBPF annual review.

II. PUBLIC HEARING

A. Notice of Intent

1. Town of Nantucket (DPW) – Town Wide (Various) SE48-3366

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

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

Representative Gene Crouch, Senior environmental scientist VHB

Tori Brown, VHB

Public David M. Haines, Haines Hydrogeologic Consulting

Discussion (5:09) **Crouch** – Don’t have the Massachusetts Natural Heritage (MNH) letter but are coordinating with them; they are asking for more details on areas where work will be done. Will put together more detailed information on each activity. At the last meeting members were concerned about granting Department of Public Works (DPW) a free had to do work; this is for maintenance of facilities in place already. We hope material we provide for MNH will allay Commissioner concerns.

Beale – He still has reservations on waiving state laws and town bylaws without a more specific property management plan. It would be helpful to know what other towns are doing in this situation.

Golding – He shares Mr. Beale’s reservations; maintenance is an elastic concept.

Erisman – Asked if there was an outreach to the Association of Directors of State ConCom.

Crouch – The Town of Needham has an Order of Conditions for their DPW; it’s pretty comprehensive. Dave Paulson at MNH said there are other Towns that have these types of generic Order of Conditions for their DPWs.

Haines – Belchertown has had one of these for the past 20 years; it works pretty well. Any sensitive project should be reviewed by Natural Resources staff. It cuts down on the number of minor applications.

Topham – Each property and each situation should be written up and signed off. Natural Resources staff could do a pre-work inspection. If that system were in place, we could also be informed to do a drive-by.

Crouch – Asked for a 4-week continuance.

Staff We’ve been able to find one other community that has done this; he’ll send that out. In discussion with other State ConComs, there is the idea this will help monitor work. We look at this to provide oversight on work that might be exempt from the Act.

One idea we have is to have a form about the activity that is submitted to the office; we do an inspection and sign off on it.

Motion Continued to 2/25/2021

Roll-call Vote N/A

2. Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337 **(Cont. 02/11/2021)**

3. Weissenberger – 84 Pocomo Road (15-40) SE48-3364 **(Cont. 02/11/2021)**

4. Trojah Nominee Trust – 26 Easy Street (13-22) SE48-3369 **(Cont. 02/11/2021)**

5. Hedges, LLC – 10 Basset Road (26-39) SE48-3374
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (5:25) **Gasbarro** – This is for work in buffer; we were waiting for a DEP file number, which we have.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: LaFleur) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
6. *Randy Sharp – 1 Wamasquid Place (56-113.1) SE48-3370
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Bracken
 Public None
 Discussion (5:27) **Bracken** – This is to remove the existing driveway and relocate to off Wamasquid outside the 25-foot buffer to a wetland. Existing drive will be reseeded. Proposing a shed outside the 50-foot buffer, and a large deck to be removed from within the 100-foot buffer.
Beale – It’s possible to avoid the driveway from entering the 50-foot zone by placing it more to the west and going straight in.
 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
7. *Nantucket Conservation Foundation – 11 Heads of Plain Road (Various) SE48-3385
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Naomi Valentine, SWCA
 Karen Beattie, Direct of Science & Stewardship Nantucket Conservation Foundation
 Public None
 Discussion (5:30) **Valentine** – MNH informed us they aren’t ready to give a response. This is for phragmites management plan along the south edge of Long Pond. Plan a combo of manual cutting, herbicide application using the herbicide Clearcast, and removal of debris. This is also in area of land subject to coastal storm flowage and coastal dune. Due to the size of the area, we are unable to meet some performance standards. All access will be on foot using hand pruners to access the areas. Hope is the native vegetation will infill but proposed a seeding plan to encourage more rapid germination. There will be post-treatment cutting, monitoring, and herbicide application. Also plan to revegetation as needed with beach grass in the coastal dune area.
Phillips – She lives on Long Pond Drive and has been watching this; thinks the impact of this work will allow the cattails to come back. She’s very interested that they’re using Clearcast; it’ll be interesting to see how it well it works and if its cleaner to use than glyphosate. Additional beach grass is very important to preservation of the dunes and is in keeping with what other entities are doing out there.
Golding – Massachusetts has done an analysis of Clearcast and nerve ingredients are proprietary; that makes him nervous. He’d be very interested in where else in Massachusetts it’s been used and its effectiveness and any side effects.
Erisman – She’s excited to see the ecological restoration of our ponds.
Valentine – Asked for a 2-week continuance.
 Staff None
 Motion Continued to 02/1/2021
 Roll-call Vote N/A
8. *Sweet Meadow Sylvia Lane, LLC – 74 West Chester Street (41-478) SE48-____ (Cont. 02/11/2021)
9. *Scannell – 119 R Eel Point Road – 119R Eel Point Road (33-17.1) SE48-3378
 Sitting Erisman, Golding, LaFleur, Topham, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (5:42) **Santos** – The work is for development of the site; this is specifically for a corner of the pool and a portion of the pool house within the 100-foot buffer. The proposal respects the 50-foot setback from the wind-blown sand. A construction fence will demarcate the 50-foot no build.
Erisman – Thinking about a number of coastal projects, asked if we could have a condition that as structures come within our buffer zone, the structures are removed from that area.
 Staff He doesn’t think a specific action could be required but you could ask the applicant to appear before us to discuss future management on the property.
 Have everything needed to close.
 Motion **Motion to Close.** (made by: Topham) (seconded)
 Roll-call Vote Carried 6-0//Beale, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Engelbourg recused

10. Killian – 10 Mayhew Lane (41-443) SE48-3356
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Public R.J. Turcotte, Nantucket Land Council, Inc.
 Discussion (5:49) **Madden** – The plan reflects a revision relocating the pool outside the 50-foot buffer. The pool will be raised to elevation 17 with the bottom above the groundwater but are requesting a waiver; don’t anticipate a need for dewatering.
Engelbourg – Glad the pool is moving outside the 50-foot buffer and moving forward with restoration of the isolated vegetated wetland. In line with that, they should relocate the spa and deck outside the 50-foot buffer; realizes those are existing.
Madden – Moving the deck and spa might be difficult in this situation; in 2004, an as-built plan showed the deck and hot tub outside the 50-foot buffer. Restoration work will provide a significant improvement over current conditions.
Turcotte – Thanked the applicant for making the changes to the pool.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: Beale) (seconded)
 Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
11. *CedarView Point, LLC – 40 Shawkemo Road (27-4) SE48-3376
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None
 Discussion (5:54) **Madden** – This is for modifications to patios and landscaping around the main house outside the 50-foot buffers to bordering vegetated wetlands and a coastal bank and coastal beach. The modifications reduce structures within the buffer by about 150 square feet (sf). We’ve requested a waiver for the work.
Beale – The plan doesn’t show the established conditions.
 Staff Have everything needed to close.
 Motion **Motion to Close.** (made by: LaFleur) (seconded)
 Roll-call Vote Carried 6-1// Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Beale-nay
12. *9 E Street, LLC – 9 E Street (60.2.1-6) SE48-3375
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None
 Discussion (6:01) **Madden** – For a septic upgrade to I/A and cottage foundation within the 50-foot buffer to a coastal bank and a saltmarsh; no change in configuration or height. Requesting a waiver for no adverse impact.
Topham – On the plan, it says there are window wells.
Madden – That is not the cottage being lifted.
Phillips – Two abutters expressed concern about the proximity of the septic to their wells. Asked how the location of the wells were considered. Given that an I/A is intended to improve conditions, it shouldn’t impact nearby water sources.
Madden – With the inclusion of I/A, you’re improving water quality. He’s curious to here of impacts to wells from completed work.
Erisman – An I/A should improve water quality.
Golding – Asked if driving a pile would compact the soil and affect the water table.
LaFleur – In shallow wells like that, it could. He thinks poor water quality was happenchance with other work.
Erisman – Asked if we could condition that the applicant come back in should there be evidence of impact on the abutters well.
LaFleur – You would have to test the wells prior to work and after work to determine if there is a change.
Golding – Suggested conditioning no use of a vibratory hammer and if it need be used, the well be tested before and after.
Madden – Don’t need a vibratory hammer; this is a 2 to 3-foot crawl space with minimal excavation.
LaFleur – A shallow foundation can be shored up with beams and shoring plates; shouldn’t need sheeting.
Engelbourg – Correlation doesn’t mean causation; if we were to test before and after, it would have to be at the same time of year and same conditions; that would provide observational information.
Madden – We can provide construction methodology.
Carlson – Read into the record a letter from Bill Grieder
Turcott – This close to a resource area, asked if the idea of a tight tank was brought up.
Madden – Asked for a 2-week continuance.
 Staff The Board of Health (BOH) and Massachusetts DEP require I/A systems to be compliant due to improve water quality. The other part of the comment was concern about driving sheeting to secure soil prior to installation of the crawl space and tanks. Construction methodology would be helpful to have.
 Read into the record a letter of concerns from Mary Chalke at 7 E Street.

We don't have the ability to require testing on property which is not part of the applications.
 This might be a case the commission asks for information on the construction protocol; he thinks some level of sheeting will be needed given the size and location and depth of construction.
 Use of a tight tank is a very long answer; DEP uses tight tanks as a method of last resort over a Title 5 tank.

- Motion Continued to 02/11/2021
 Roll-call Vote N/A
13. *Old North Wharf Co, Inc – Old North Wharf (42.3.1-225) SE48-3380
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:21) **Gasbarro** – This is to replace in kind, the deck boards on the pier. Work would be from land with no cutting over the harbor. Have received sign off from division of marine fisheries.
 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. *59B Polpis Road, LLC – 59B Polpis Road (41-202) SE48-3377
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:22) **Gasbarro** – This is for work within buffer to wetlands; Brian Madden, LEC Environmental flagged the resource boundary areas; show the 38-foot area of the no-disturb zone to be marked by a split rail fence. There will also be a temporary silt fence along that line. We are outside the zone of a vernal pool which has not been certified by the State; it's likely not a vernal pool.
Topham – Thanked Mr. Gasbarro for the extra steps.
 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
15. *Lynne F. Berlyn – 2 Francis Street (55.1.4-4) SE48-3381
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.
 Representative Art Gasbarro, Nantucket Engineering & Survey
 Public None
 Discussion (6:26) **Gasbarro** – This is within land subject to coastal storm flowage to widen the driveway and add an apron.
 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
16. *Two Twelve Polpis Road Nominee Trust – 212 Polpis Road (26-18) SE48-3382
 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 (6:28) **Haines** – This is for demolition and reconstruction of a house within the 100-foot buffers to a bordering vegetated wetland and coastal bank by policy. Area is within MNH priority; have submitted that for review but haven't heard back. Existing limit of brush will remain; no work is within 50 feet of the buffer; no regrading; excess material will be removed outside the buffer zone. Asked for a 2-week continuance.
 Staff None
 Motion Continued to 02/11/2021
 Roll-call Vote N/A
17. *Susan Elliot Wyss et al, Trustees – 43½ Shell Street (73.1.3-4) SE48-3383
 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
 Arthur Reade, Reade, Gullicksen, Hanley, & Gifford LLP
 Public None
 Discussion (6:31) **Haines** – This is to install a granite pathway to the 'Sconset Bluff, which isn't considered a coastal bank. The bottom of the steps is within 50 feet of the dune field; this is a water dependent use. All work is by hand with no regrading; any soil disturbance will be loamed and seeded.
Engelbourg – Understands it was previously permitted but would prefer a raised wood boardwalk, which would be less impactful than a granite staircase.
Erisman – Agrees; asked if the raise walk has been considered.
Haines – He'd have to go back to the owner about raise steps.
Golding – If the alternative is a wood staircase with handrails, he'd prefer the stone.

LaFleur – He prefers the granite step system; it’s low profile.

Topham – Agrees with Mr. Golding; handrails are an impact. Asked where the granite would be cut; it should be out of the bank so there is no debris.

Reade – When this project was previously approved, it was considered a coastal bank; now it isn’t and that indicates what’s being done is less of a problem in terms of stone steps. Would have to talk to our client about wood steps.

Haines – The area vegetation will be removed, and steps will be dug out by hand; any cutting would be done outside the buffer.

Phillips – She leans toward the granite as well; it would be less imposing.

Beale – Agrees about the granite.

Engelbourg – He believes the granite will meet the performance standards.

Carlson – Brian Herlihy, agrees granite would be better.

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

18. *Maryann Jones – 6 East Lincoln Avenue (42.4.1-49.1) SE48-3384

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 (6:43) **Haines** – This is for removal of an existing garage and construction of a studio in the same location within land subject to coastal storm flowage. There are no other resource areas within 100 feet. Existing is at grade with no foundation; the studio will be constructed above the flood elevation 7 on pilings to allow floodwaters to pass beneath it with pervious surface. Disturbed areas will be loamed and seeded, and excess material removed from the site.

Staff Have everything needed to close.

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

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

B. Amended Order of Conditions

1. D & B Realty Trust – 11A Meadow Lane (41-448) SE48-3299

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

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

Representative Paul Santos, Nantucket Surveyors

Katy Mitchell, KM Designs

Public None

Discussion (6:47) **Santos** – At the last meeting, the commission requested a revised landscape plan and planting plan showing native plants within ConCom jurisdiction. No waivers were requested or needed.

Engel – He’s still disappointed by the plants being used on the rest of the subject property and will cause issues to the subject area within our jurisdiction.

Erisman – Agrees. Nantucket needs to be better with landscaping decisions.

Mitchell – In her opinion working 18 years on this island, about 80% of plants on the list cover most plants on this Island. Feels the ConCom’s comments regarding plants indicates they are out of touch with plants being used in landscaping.

Erisman – We have a good perspective of the environment and we ask for the use of native plants within the buffer zones of every landscaper. We know some of the plants escape into the environment.

Engelbourg – He understands there’s a tradition of using these plants; but Nantucket in general needs to look holistically at landscaping choices going into the future.

Staff Have everything needed to close.

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

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

2. 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

Jennifer Baltzar, owner

Caroline Baltzer, owner

Marty McGowan, ‘Sconset Gardner

Public None

- Discussion (6:54) **Santos** – Property is entirely within land subject to coastal storm flowage and a small isolated vegetated wetland. Read from the original LEC report from Brian Madden regarding vegetation in the isolated vegetated wetland. This is to relocate the garage partially within the 100-foot buffer to the isolated vegetated wetland. The parking area has also been shifted west. Jennifer Baltzar has occupied the property and wants to make the main house handicapped accessible by installing a ramp on the west side within the 50-foot buffer to the isolated vegetated wetland. This requires a waiver; we’re also asking for waiver for groundwater separation because of the isolated vegetated wetland. State zoning act exempts handicapped ramps from zoning setbacks but there isn’t an exemption under Wetlands Act. Work is approved by the Historical District Commission. Working on handicapped solutions for the relocated dwelling, which is winterized.
- Engelbourg** – It’s important that we don’t set a bad precedent; our prerogative is whether or not any structure is impacting a resource area. We should be evaluating on the basis of ecology, not accessibility.
- Golding** – Agrees with Mr. Engelbourg. Asked why the ramp didn’t go on the east side. Suggested the garage be moved so the access would be permissible on the east side.
- McGowan** – The ramp is going into the driveway area so that an accessible vehicle can be pulled up to the ramp. He considered the thought of precedent; the relocation of the garage creates a greater greenspace in the south side of the yard; he’s been instructed to honor the pre-existing conditions of Hulbert Avenue in the plants. He doesn’t believe it creates precedent as each application is weighed individually.
- J.Baltzer** – The way our house is laid out, there is no door on the east side to access the ramp; it would be a hardship to redesign the interior to make a ramp on the east side functional.
- Reade** – Regarding precedent, any decision you make doesn’t create a precedent; only the appellate court can create a precedent. Being arbitrary and capricious in making decisions is challengeable in court. In this case, there’s probably little to no impact on the isolated vegetated wetland. If you make the distinction clearly in the amended order, that sets up the ability to refuse a ramp in a clearly inappropriate location.
- C.Baltzer** – The garage was moved off the sensitive area to plant the green space with native species the ConCom desires. The Americans with Disabilities (ADA) accommodations is a much small space.
- Santos** – The isolated vegetated wetland serves as flood storage in the area. The 3-car garage is 640sf and was entirely within the 50-foot setback and partially within the 25-foot; only 20sf of the new ramp is within the buffer.
- Beale** – Asked if it would be possible to have a ramp from Walsh to the second dwelling without incursion into the resource area.
- Santos** – The ramp would go along the walkway; it would still be w/in the 50-foot setback.
- Phillips** – In terms of looking at this as precedent, we have to be careful about how one decision impacts other homes and would be used as a wedge that would be to the detriment of resource areas. Asked how much mitigation is possible on this lot and if more could be done. The more mitigation, the more to the applicant’s benefit.
- Santos** – Everything to the west of the relocated structure and existing dwelling would all be buffered between structures and the wetland; we did not propose any lawn. The area to the east of the structures is existing disturbed yard.
- McGowan** – The intention of the yard is to meet future goals of the Board using indigenous plants that takes us back to Brant Point.
- Topham** – Asked the width of the deck to the door.
- McGowan** – 4-foot wide and raised with beachgrass underneath; it’s just wide enough to get a wheelchair into the ADA door.
- Topham** – If the plan ran along the north side to the deck and door, it would take it outside the 50-foot buffer and allows the owners to reduce most of the deck within the 50-foot buffer.
- McGowan** – The addition of the ramp to the “jut out” provides direct access to a kitchen apartment. Otherwise, all interior doors have to be modified to access through the house to the apartment. He’d be happy to resubmit revisions with the ramp where it is and removing the deck to the back door.
- Santos** – He could provide a benefit analysis of what was and what would be in the 50-foot buffer as well as advantages to the isolated vegetated wetland.
- Erisman** – Would also like to see a plan that minimized structures within the 50-foot buffer.
- Golding** – Concurr. Asked if the family would accept a condition that should the property be sold, the ramp would be removed, and the structure returned to its original footprint.
- Reade** – The key point would be the wordsmithing of the decision; there would be no alteration of the area permitted for use of the handicapped ramp into living space without further action by the ConCom.
- C.Baltzer** – Don’t want the ramp on the front because it wouldn’t look good and we don’t want to change the look of Brant Point. Asked for approval to set the garage down.
- Erisman** – We can’t do this in two parts with a single application.
- Reade** – Suggested withdrawing the ramp from the application and asking to close on the rest.
- Golding** – His concern with that splitting the application and approving the garage would lock the ramp into being on the east side of the house; there are reasonable alternatives.
- Engelbourg** – He wants to have at least one more hearing.
- Topham** – He’s okay with breaking the applications up into the garage and the ramp. The ramp on the north could be screened.

Phillips – Thinking about the family’s priority, safety and accessibility and comporting with our regulations, the ramp could be moved to the front and adequately screened. About dividing the application, she’s okay with allowing the garage to go in if that doesn’t cut off any of the options we’ve discussed.

Golding – One observation is from 30 years ago when his family lived near the lighthouse, the contractor wanted to turn the access from the southeast to northwest; we impressed upon him the issue with the winter north wind. He wonders if coming in from the east would provide Ms. Baltzer more protection.

Staff We could condition it, but the tricky part is you don’t know what the timeframe would be. Old conditions tend to be forgotten and would have to be done in a way that it would be carried forward.

We would have to close the public hearing to issue so if you want other information, that would require a new application and its being renoticed. You would approve the amended order to only relocate the garage.

Motion **Motion to Issue the amended order to include only the relocation of the garage provided it doesn’t interfere with any ADA Ramp.** (made by: Beale) (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 Town of Nantucket - Sea Street PS FM # 3 Alignment (N/A-N/A)

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

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

Representative Madison Gleason, Assistant Engineer Hazen & Sawyer

Frank Ayotte, Associate Vice President and Project Manager Hazen & Sawyer

David Gray, Sewer Director

Public None

Discussion (7:54) **Gray** – After the force main failure; we did extensive exploration and planning on this. The route that was chosen because sewer and stormwater will all be replaced at the same time within rights of way.

Gleason – There are to force mains to Surfside Wastewater Treatment Facility: 16” and 20”. Reviewed the reason for the failure and subsequent investigations leading to the decision to lay a new 24” force main, abandon the 16” force main, and upgrade the 20” force main. Reviewed the proposed route for the new force main, construction considerations, sedimentation control, surface restoration, and project schedule. Hope to start construction in early fall.

Phillips – Asked what the lifespan of the new force main would be.

Ayotte – Typically, based upon the PVC material, you can expect a 50-year lifespan.

Staff Recommend approval as a Negative 2 for work in areas of protection with no impact and Negative 3 allowing the work.

Motion **Motion to Issue as Negative 2 & 3.** (made by: Engelbourg) (seconded)

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

2. Lower Shimmo Nominee Trust – 42 Shimmo Pond Road (43-126)

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 (8:11) **Gasbarro** – This is to convert an on-site septic to connect to Town sewer. The existing tank is fairly deep, so options are limited regarding existing pipes. The existing system would be abandoned and filled in. Resource is a coastal bank and just outside the limit of land subject to coastal storm flowage.

Staff Recommend issue as Negative 3 allowing the work.

Motion **Motion to Issue as a Negative 3.** (made by: LaFleur) (seconded)

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

3. Morton Family Realty Trust – 15 Gardner Road (43-87)

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 (8:14) **Blackwell** – This is to connect to Town sewer. Work is within the buffer to a wetland and is within the existing driveway.

Staff Recommend issue as a Negative 3 allowing work

Motion Motion to Issue as a Negative 3. (made by: Topham) (seconded)

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

D. Certificates of Compliance

1. Drumlin Realty Trust – 86 Quidnet Road (21-102, 103&69) SE48-216

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

Staff Sought Health Department advice, but agree it is in compliance.

Discussion (8:16) **Don Bracken**, Bracken Engineering – This is a 1983 permit issued for a septic upgrade. Believes it is in substantial compliance.

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

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

2. 48 Walsh Street Nominee Trust – 48 Walsh Street (29-101) SE48-3183
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Staff We agree it is in compliance. This property had water discharge issues and the project eliminated that.
 - Discussion (8:19) **Don Bracken**, Bracken Engineering – Everything was done in compliance.
 - Motion Motion to Issue the certificate. (made by: Beale) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 3. Safe Harbor Realty Trust – 2 Harbor View Way (42.4.1-31) SE48-3008 **Withdrawn**
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Staff None
 - Discussion (8:21) None
 - Motion **Motion to Accept the Withdrawal.** (made by: Phillips) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 4. Sweet Meadow Sylvia Lane, LLC – 74 West Chester Street (41-478) SE48-3017 (**Cont. 02/11/2021**)
 5. Lenhart – 25 Dukes Road (41-530.3) SE48-2723
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Staff It is appropriate.
 - Discussion (8:21) **Jeff Blackwell**, Blackwell & Assoc. – This is to satisfy a lending institution to demonstrate the project is on the right track; the house is framed with about 6 more months until it is complete. Asking for a partial certificate.
 - Motion **Motion to Issue the partial certificate to indicate the structures are in the proper location.** (made by: Topham) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 6. Boynton – 14 North Cambridge Street (59.4-101) SE48-3325
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Staff Recommend issuing
 - Discussion (8:24) **Paul Santos**, Nantucket Surveyors – This is for a septic replacement with a new I/A nitrogen reducing system. All paperwork is in place.
 - Motion **Motion to Issue.** (made by: Phillips) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
- E. Orders of Condition**
1. Hedges, LLC – 10 Basset Road (26-39) SE48-3374
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff This has our special pool conditions.
 - Discussion (8:26) 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
 2. Randy Sharp – 1 Wamasquid Place (56-113.1) SE48-3370
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff This was for relocating the driveway and shed; he called out the pool, which is outside our area of jurisdiction, that it can't be drained into our area of jurisdiction. Included photo monitoring of the removed driveway area.
 - Discussion (8:28) None
 - Motion **Motion to Approve as drafted.** (made by: Topham) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 3. Scannell – 119 R Eel Point Road – 119R Eel Point Road (33-17.1) SE48-3378
 - Sitting Erisman, Golding, LaFleur, Topham, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff Added an additional finding for new construction that is currently outside the 100-foot buffer wont' qualify for pre-1987 protection should they end up within our jurisdiction. Condition 24 requiring that any structure entering the 50-foot buffer will require the owner to appear before the commission to discuss management.
 - Discussion (8:29) None
 - Motion **Motion to Approve.** (made by: Beale) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Engelbourg recused
 4. Killian – 10 Mayhew Lane (41-443) SE48-3356
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff Has the new pool conditions plus Condition 24 annual report, Condition 25 no cultivars, Condition 26 is an invasive species requirement. Condition 27 that once they start planting they need to file a partial certificate of compliance. Condition 31 requires the provide a contract ensuring someone was engaged to do the restoration work. Condition 29 requires marking the protected area permanently.
 - Discussion (8:32) 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

5. CedarView Point, LLC – 40 Shawkemo Road (27-4) SE48-3376
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff Asked for photo monitoring.
 - Discussion (8:35) 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
 6. Old North Wharf Co, Inc – Old North Wharf (42.3.1-225) SE48-3380
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff The construction protocol was very comprehensive; no special conditions.
 - Discussion (8:36) None
 - Motion **Motion to Approve as drafted.** (made by: Engelbourg) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 7. 59B Polpis Road, LLC – 59B Polpis Road (41-202) SE48-3377
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff This was for a pool and site work. Standard pool conditions.
 - Discussion (8:38) 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
 8. Lynne F. Berlyn – 2 Francis Street (55.1.4-4) SE48-3381
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff This was the driveway modification.
 - Discussion (8:40) None
 - Motion **Motion to Approve as drafted.** (made by: Topham) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 9. Susan Eliot Wyss et al, Trustees – 43½ Shell Street (73.1.3-4) SE48-3383
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Staff This was for the granite stairs; pretty straight forward. Will add Condition 19 directing lighting away from resource areas. Will add Condition 20 requiring any cutting outside the resource area.
 - Discussion (8:41) **Topham** – Asked if there is a concern about lighting.
Phillips – Asked if we need to condition that any shaping of the granite is outside the buffer zone.
 - Motion **Motion to Approve as amended.** (made by: Topham) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
 10. Maryann Jones – 6 East Lincoln Avenue (42.4.1-49.1) SE48-3384
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Draft Order of Conditions
 - Representative Only condition is no filler is allowed.
 - Staff None
 - Discussion (8:45) None
 - Motion **Motion to Approve as drafted.** (made by: Topham) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
- F. Extension of Orders of Conditions**
1. 12 North Road Trust – 12 North Road (43-82) SE48-3022
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Order of Conditions
 - Staff For invasive plant management. Asking for three 1-year extension to start monitoring and finish the bulkhead.
 - Discussion (8:46) None
 - Motion **Motion to Issue three 1-year extensions.** (made by: LaFleur) (seconded)
 - Roll-call Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
- G. Other Business**
1. Approval of Minutes 1/7/2021: Phillips – (add “S” to her name)
 - Motion (8:48) **Motion to Approve as amended.** (made by: Engelbourg) (seconded)
 - Roll-call Vote Carried 6-0//Beale, Engelbourg, Erisman, LaFleur, Phillips, and Topham-aye; Golding abstained
 2. Monitoring Reports – Pocomo Neighbors – 47, 53, 55, 57, 61, 63 67, 69 Pocomo Road SE48-2874
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 - Documentation Monitoring reports
 - Speakers Art Gasbarro, Nantucket Engineering & Survey
 - Discussion (8:50) **Beale** – It looks very stable.
 3. Proposed Amendments to Docks, Piers, and Wharves Prohibition
 - Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale

Documentation Citizen Warrant Article Zoning bylaw change
 Speakers Emily Molden, Nantucket Land Council
 Discussion (8:53) **Molden** – This is a proposal to change the zoning bylaw; it won’t materially affect anything ConCom does. Added language that a determination be made that there is no increased threat to natural resource areas.
Engelbourg – Asked who would make that determination. “...more detrimental to marine environment” is open-ended language; it might help to list out some detriments. We should include a similar prohibition in our rewrite of our regulations.
Molden – The determination would be by the Zoning Board of Appeals but the would be required to look to Natural Resources and Marine Department for input. It is appropriate for ConCom to consider additional restrictions under the Wetlands Act.
Phillips – Raising the issue reminds people to be careful about this topic.

- 4. Reports:
 - a. CRAC, Golding – He will forward Acadia’s monthly report to Mr. Carlson for further distribution.
 - b. CPC, Topham – Rewrote CPC voting issues.

5. Enforcement update – 27 Washington Street

Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
 Documentation Correspondence
 Discussion (9:02) **Carlson** – Reached out to the homeowner, who sent a letter; he provided us information on who did the work. We will reach out to the landscape company to get them to understand all the rules. They will let it regrow; we can monitor that.
Erisman – The only thing about regrowth is can we require them to deal with the loose strife. (Yes.)
Engelbourg – Asked if we know when the actual cutting occurred. It’s possible that the cutting happened when plants entered the dormancy period but it’s also possible the seed heads were active during the cutting. Depending on the information would dictate the level of enforcement. Should require follow-up monitoring. Would like to see photos of pre-existing conditions to ascertain if there has been an increase in invasive coverage.
Golding – According to the letter, he did it in mid-October – early November.
Carlson – He has it narrowed down the cutting to three days; he’ll email the information out. The pre-existing photo is from Google Maps.

Motion No action at this time.

Roll-call Vote N/A

- 6. Commissioners Comment
 - a. Golding – The wind-blown sand, asked if that can be added as a definition in the revamp of our regulations.
 Carlson – You’d have to be specific, but you find wind-blown sand everywhere. He’d have to research how it interacts with coastal banks and coastal dunes.
- 7. Administrator/Staff Reports
 - a. 315 Polpis Road – Sent an email to Detective Kelly about this. This property is too small to qualify for agricultural exemption. 5 acres is the cut off for agricultural exemptions.
 - b. Larrabee Farm – We had entered them into enforcement; the property they are using is owned by the Land Bank. We are going to delineate the wetland first; they can then start developing their agricultural plan. Hopefully everything will be wrapped w/in a year.
 - c. Polpis Road at Saccacha Pond – Talk to MNH, Massachusetts DEP, and Audubon regarding a living shoreline. Reviewed conceptual designs and Town is filing the MESA checklist. Will be back in front of ConCom for removal and replacement.

H. Adjournment

Motion **Motion to Adjourn at 9:20 p.m.** (made by: Golding) (seconded)

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

Submitted by:
 Terry L. Norton