



# CONSERVATION COMMISSION

## PUBLIC MEETING

2 Bathing Beach Road  
Nantucket, Massachusetts 02554

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

Thursday, June 24, 2021 – 5:00 p.m.

**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; Terry Norton, Town Minutes Taker

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

Remote Participation: Per 940 CMR 29.10, Maureen Phillips is participating remotely.

\*Matter has not been heard

### **I. PUBLIC MEETING**

#### **A. Announcements**

**B. Public Comment** – Discussion about conducting the SBPF 5:00 p.m. June 30<sup>th</sup> meeting via ZOOM.

### **II. PUBLIC HEARING**

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

1. Nantucket Islands Land Bank – All Land Bank Properties (Various) SE48-3337 (**Cont. 08/26/2021**)

2. Town of Nantucket DPW – Surfside Beach (87-60 & 131) SE48-3420

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

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

Representative Robert McNeil, Director Department of Public Works (DPW)

Public None

Discussion (5:05) **McNeil** – Reviewed revised plans based upon previous comments at the last hearing and during the site visit.  
**Erisman** – She had asked for written correspondence to the vendor to ensure they understand what’s happening. When she was out there this afternoon, the vendor had items blocking the handicapped (H/C) access from parking to the building; that needs to be addressed because it is causing of the issue.

**Topham** – Confirmed the 9’ deck is cantilevered.

**Golding** – Said Micky Rowland’s letter supporting this application was very compelling.

Staff recomm. Read Mr. Rowland’s letter into the record.

Have everything needed to close.

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

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

3. Galiher – 34 Washing Pond Road (31-13.3) SE48-3439

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 (5:12) **Gasbarro** – This is the second hearing for work in the buffer to a coastal bank for a set of beach stairs; we’ve provided supplemental information including a change in plants to be used.

**Beale** – He wants irrigation within the 50’ buffer to be conditioned.

Staff recomm. Have everything needed to close.

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

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

4. EPR RGH, LLC – 119 Eel Point Road (33-17.2) SE48-3437

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 (5:16) **Santos** – Reviewed the project. Resource area is a coastal bank elevated above the lawn by 3-5 feet; have added a transitional area between the bank and lawn. Received a letter from Linda Saligman, the abutter to the east; feels we’ve addressed her concerns.

**Phillips** – Appreciates the additional area; however, she tends to think of lawn grass as an invasive species; we need to think hard about allowing lawn in a clear-cut area or within the buffer.

**Erisman** – We try to encourage use of native grasses for lawns.

Staff recomm. Have everything needed to close.

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

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

5. \*Kingfisher Realty Trust – 278 Polpis Road (25-2) SE48-3446  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative David M. Haines, Haines Hydrogeologic Consulting  
 Public None  
 Discussion (5:21) **Haines** – This is for a house in the 50’ buffer to two isolated vegetated wetlands. There will be a little work within the 25’ buffer to put in the half foundation. Not asking for waivers.  
**Engelbourg** – He’s concerned about the “little bit of work within the 25.” Asked for clarification.  
**Haines** – He meant within the 50’; no work will be within the 25’ buffer.  
 Staff recomm. Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded)  
 Vote Carried 6-0//Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Beale-recused
6. \*72 Pocomo Road, LLC – 72 Pocomo Road (15-37) SE48-3440  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Jeff Blackwell, Blackwell & Associates  
 Public R.J. Turcotte, Nantucket Land Council  
 Discussion (5:24) **Blackwell** – To remove existing structures and restoration work within 50’ of a coastal bank.  
**Turcotte** – Asked if this is an eroding bank and should Performance Standard 7 be considered.  
**Erisman** – It is an eroding bank and the standard should be applied.  
**Blackwell** – He checked the erosion rate and it is between 1 & 2 feet a year; 50’ is more than 20 times the erosion rate.  
 Staff recomm. Regarding the revegetation, this project is up to date and current with all monitoring requirements.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
7. \*NISDA – 55 Wauwinet Road (14-23) SE48-3441 **(Cont. 07/08/2021)**
8. \*Garren – 36 Pocomo Road (14-79) SE48-3442  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Jeff Blackwell, Blackwell & Associates  
 Public None  
 Discussion (5:28) **Blackwell** – This is to renovate a single-family dwelling with some expansion work; all structures will meet the 50’ setback from the wetlands. Also, they will abandon the conventional septic system and install an I/A system. Mr. Madden has been submitting monitoring reports related to an aggressive cutting program by the former owner; those areas are revegetated and coming along well.  
 Staff recomm. We agree the site is currently in compliance.  
 Have everything needed to close.  
 Motion **Motion to Close.** (made by: Golding) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
9. \*Nantucket Islands Land Bank – 18 Hoick Hollow Road, Easement Area (23-9) SE48-3445  
 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 Burton Balkind  
 Discussion (5:31) **Gasbarro** – This is within 100’ buffer to a coastal bank to square up and formalize existing parking to create 4-6 head-in parking spaces. About 400 sf of vegetation will be removed outside the 50’ buffer. Wrote up the proposal asking for some gravel stabilization if needed.  
**Phillips** – Asked what will happen to the current dirt driveway and if anything will be done to it.  
**Gasbarro** – It will be incorporated into the new parking and will be graded.  
**Engelbourg** – This is an improvement. He hopes the Land Bank will add some tasteful signage indicting it’s a parking area while on a susceptible eroding bank to keep folks from driving on the bank.  
**Balkind** – Asked if there is an agreement with SBPF to use that spot; they’ve had a buggy parked there.  
**Gasbarro** – He was told the buggy wouldn’t be allowed to park there any longer.  
 Staff recomm. Have everything needed to close.  
 Motion **Motion to Close.** (made by: Topham) (seconded)  
 Vote Carried unanimously// Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham; Beale-abstain
10. \*Nantucket Conservation Foundation – Ram Pasture (57-12) SE48-3443 **(Cont. 07/08/2021)**
11. \*Herbert – 4 Harbor View Way (42.4.1-30) SE48-3444  
 Sitting Erisman, Golding, LaFleur, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Don Bracken, Bracken Engineering  
 Public None

Discussion (5:40) **Bracken** – This is for landscaping and reconfiguring the air-conditioning system and brick walkways within land subject to coastal storm flowage. No changes in grade.  
 Staff recomm. Have everything needed to close.  
 Motion **Motion to Close.** (made by: LaFleur) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, and Phillips-aye; Topham-recused

**B. Amended Order of Conditions**

1. Snowdon – 11 Massachusetts Avenue (60-80) SE48-3148  
 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 R.J. Turcotte, Nantucket Land Council, Inc.  
 Discussion (5:42) **Blackwell** – Shared photos taken from Jackson Point; the posts will be visible. Reviewed concerns and intent of the applicant. The application would accept a condition that, should the property be sold, the rail would be removed.  
**Engelbourg** – He would ask for seasonal removal of the rail.  
**Erisman** – Agrees about a seasonal removal.  
**Golding** – Our purview isn’t about helping the elderly in a private situation; they could use a walker or a walking stick. Our purview of protecting unobstructed views is getting harder and harder. Asked why we aren’t considering how the sunlight will be blocked by the walkway.  
**Topham** – Agrees.  
**Engelbourg** – Fibergrate is an excellent technology for the walkway. He’s okay with the railing.  
**Phillips** – They’ve done what they can. She understands Mr. Golding’s points, but she’s willing to accept this with Fibergrate and seasonal removal.  
**Beale** – He supports Mr. Golding’s thoughts on the railing. He thinks it will be higher than anticipated. The walkway is okay but not the railing.  
**Turcotte** – Asked if they have considered stabilizing or improving the existing sand path. The existing path is sand and he’s not sure it cuts through any peat at this time; a constructing a boardwalk would cause greater damage to any peat. If there is any way to avoid putting in anchors, they should look into that.  
**Blackwell** – The thought is that human foot traffic through the salt marsh will damage the vegetation.  
**Erisman** – It was not sand and definitely wet with sparse vegetation.  
**Beale** – Asked if the boardwalk the commissioners used during the site visit is portable. The portable walkway is more damaging.  
**Blackwell** – Portable walkways have been destroyed during storm events; that’s why they’re asking for a permanent one.  
**Topham** – The board walk would be 170 feet with a post every 4 to 6 feet; that’s 20 posts.  
**Engelbourg** – Asked about the idea of using an innovative surface with extra grip rather than posts.  
 Discussion about possible products for secure footing.

Staff recomm. Recommend close but not issue at this time; he will create the amended order for issuance at a later date.  
 Motion **Motion to Close.** (made by: Topham) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

2. Dudley, LLC – 15 Aurora Way (56-447) SE48-2993  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Don Bracken, Bracken Engineering  
 Public None  
 Discussion (6:04) **Bracken** – This is for a new owner modifying an existing Order of Conditions. No structures are within the 50’ buffer; revegetation area reestablished within the 25’ buffer.  
 Staff recomm. Recommend close and issue.  
 Motion **Motion to Close and Issue.** (made by: Golding) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**III. PUBLIC MEETING**

**C. Requests for Determination of Applicability**

1. Holly Bradford – 11 Hickory Meadow Lane (41-903)  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Don Bracken, Bracken Engineering  
 Discussion (6:06) **Bracken** – For a driveway within the buffer to bordering vegetated wetlands.  
**Topham** – There was a lot of machinery parked and construction debris next to the wetland; that needs to be removed.  
 Staff recomm. Recommend issue as a Negative 3 allowing work within the buffer.  
 Motion **Motion to Issue as a Negative 3.** (made by: Beale) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**D. Minor Modifications**

1. \*Gallaher & Aguiar – 4 Pond Road (56-158) SE48-3404  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Site and topographical plans, photos, requisite departmental reports and correspondence.  
 Representative Paul Santos, Nantucket Surveyors  
 Discussion (6:10) **Santos** – This is for placement of irrigation wells outside the 50’ no-build but within the 100’ jurisdiction. Buffer is to wetlands offsite to the west.  
 Staff recomm. Recommend issue as a Minor Modification.  
 Motion **Motion to Issue the Minor Modification.** (made by: Engelbourg) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**E. Certificates of Compliance**

1. Mscisz – 51 Crooked Lane (41-531) SE48-2737 (**Cont. 07/08/2021**)
2. Old North Wharf Cooperative, Inc. – Old North Pier in Nantucket Harbor (42.3.1-225) SE48-3380  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Representative Art Gasbarro, Nantucket Engineering & Survey  
 Staff recomm. Agree work is in compliance.  
 Discussion (6:11) **Gasbarro** – Work is completed in compliance  
 Motion **Motion to Issue.** (made by: Beale) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye

**F. Orders of Condition**

1. Swartz – 153 Polpis Road (44-13) SE48-3434  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Reviewed conditions.  
 Discussion (6:13) None  
 Motion **Motion to Approve as drafted.** (made by: Golding) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
2. Winthrop Nantucket Nominee Trust – 9 Salem Street (42.3.1-89) SE48-3435  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff This is the Tank Farm; reviewed included Findings. Cond 19 requires the before work starts they provide site run-off plan and notify Fire Chief and Health Department. Will add Condition 21 requiring equipment be cleaned on site prior to leaving the site. Will add Condition 22 requiring reporting to the Commission within 24 hours of any contamination event. They have strict DEP recording requirements.  
 Discussion (6:14) **Engelbourg** – In the event there is a contamination incident, asked if there is a quarantine plan and a provision for notification to officials of the incident.  
**Topham** – The pit level is only about 1 foot below the surrounding terrain; there is the potential for flooding.  
 Motion **Motion to Approve as amended.** (made by: Engelbourg) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
3. Town of Nantucket DPW – Surfside Beach (87-60 & 131) SE48-3420  
 Sitting Erisman, Golding, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff He drafted a positive order. Will add Condition 19 regarding the drainage system. Will add Condition 20 requiring photos of the deck and the area will remain undisturbed.  
 Discussion (6:23) **Erisman** – Asked if there is a condition for regular inspection of the drainage system. Under the permit overview, there is no description of a post and rope to keep people from walking in the resource area.  
**Beale** – Asked if we can condition this that they stop mowing in front of the building.  
**Erisman** – Asked if vegetation maintenance would cover the problem of mowing.  
 Motion **Motion to Approve as amended.** (made by: Topham) (seconded)  
 Vote Carried 4-2//Beale, Golding, Phillips, and Topham-aye; Engelbourg and Erisman-nay; LaFleur-recused
4. Galiher – 34 Washing Pond Road (31-13.3) SE48-3439  
 Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Condition 19 memorializing no Japanese Black Pine is permitted. During the discussion, he added Condition 20 prohibiting any permanent irrigation.  
 Discussion (6:29) None  
 Motion **Motion to Approve as amended.** (made by: LaFleur) (seconded)  
 Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
5. EPR RGH, LLC – 119 Eel Point Road (33-17.2) SE48-3437  
 Sitting Erisman, Golding, LaFleur, Topham, Phillips, Beale  
 Documentation Draft Order of Conditions  
 Staff Conditioned that any invasive species material be removed from the site and disposed of at the landfill.  
 Discussion (6:31) None  
 Motion **Motion to Approve as drafted.** (made by: Beale) (seconded)

- Vote Carried 6-0//Beale, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Engelbourg-recused
6. Kingfisher Realty Trust – 278 Polpis Road (25-2) SE48-3446
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips
- Documentation Draft Order of Conditions
- Staff This is pretty straight forward; no special conditions.
- Discussion (6:32) None
- Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
- Vote Carried 6-0//Engelbourg, Erisman, Golding, LaFleur, and Topham-aye; Beale-recused
7. 72 Pocomo Road, LLC – 72 Pocomo Road (15-37) SE48-3440
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Draft Order of Conditions
- Staff Tonight, he added Finding #3. He has the standard pool conditions.
- Discussion (6:34) None
- Motion **Motion to Approve as amended.** (made by: Topham) (seconded)
- Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
8. Garren – 36 Pocomo Road (14-79) SE48-3442
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Draft Order of Conditions
- Staff Recommends a permanent marker to prevent creep.
- Discussion (6:36) None
- Motion **Motion to Approve as drafted.** (made by: Engelbourg) (seconded)
- Vote Carried unanimously//Beale, Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye
9. Nantucket Islands Land Bank – 18 Hoick Hollow Road -Easement Area (23-9) SE48-3445
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Draft Order of Conditions
- Staff Memorialized that there is land subject to coastal storm flowage and coastal beach on the site but not part of the project.
- Discussion (6:38) None
- Motion **Motion to Approve as drafted.** (made by: Phillips) (seconded)
- Vote Carried 6-0//Engelbourg, Erisman, Golding, LaFleur, Phillips, and Topham-aye; Beale-abstain
10. Herbert – 4 Harbor View Way (42.4.1-30) SE48-3444
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation Draft Order of Conditions
- Staff He was going to adding a pool conditions for the spa. He left out the pool conditions regarding lighting.
- Discussion (6:39) **Erisman** – Noted that spas are cleaned more frequently than pools.
- Motion **Motion to Approve as amended.** (made by: Golding) (seconded)
- Vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, LaFleur, and Phillips-aye; Topham-recused
11. Snowdon – 11 Massachusetts Avenue (60-80) SE48-3148
- Sitting Erisman, Golding, LaFleur, Topham, Engelbourg, Phillips, Beale
- Documentation None
- Staff He will craft the amended order for a vote on June 30<sup>th</sup>.
- Discussion (6:39) **Golding** – No railing. He’s worked with cable and the strands tend to break.  
**Beale and Topham** – Agree.  
**LaFleur** – Supports the fibergrate and rail.  
**Phillips** – Agrees with LaFleur and seasonal removal. Feels metal is better than rope.  
**Engelbourg** – Prefers fibergrate. Prefers a steel cable over a rope.  
**Erisman** – She prefers fibergrate but is on the fence about the railing.
- Motion Continued to June 30<sup>th</sup>.
- Vote N/A

**G. Other Business**

1. Approval of Minutes 06/10/2021:

Golding – Page 3 his comment should read “...marina was built.”

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

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

2. Reports:

- a. CPC, Topham

- b. NP&EDC, Phillips

3. Enforcement updates – None

4. Commissioners Comment

- a. Golding – The Commission will miss Joe Topham.

- b. Topham – Thanked everyone for his time on the Board and for being kind and professional.

- c. Engelbourg – Asked for an updated schedule that includes site visits.

5. Administrator/Staff Reports

- a. First regular meeting in July is on the 8<sup>th</sup> and will need to elect officers and appoint committee reps.

**H. Adjournment**

Motion **Motion to Adjourn at 6:58 p.m.** (made by: Topham) (seconded)

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

Submitted by:

Terry L. Norton