



CONSERVATION COMMISSION

PUBLIC MEETING

131 Pleasant Street
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, October 27, 2022 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

Commissioners: Ashley Erisman (Chair), Ian Golding (Vice Chair), Seth Engelbourg, Mark Beale, Linda Williams, Mike Misurelli, and Joe Plandowski

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

Staff in attendance: Jeff Carlson, Natural Resources Director; Will Dell’Erba, Conservation Agent; Terry Norton, Town Minutes Taker

Attending Members: Erisman, Golding, Engelbourg, Beale, Williams, and Plandowski

Absent Members: Misurelli

Early Departure: Beale, 6:21 pm

*Matter has not been heard

I. PUBLIC MEETING

A. Announcements

B. Public Comment

Carlson – Introduced Mr. Dell’Erba

II. PUBLIC HEARING

A. Notice of Intent

1. Brant Point Club, LLC – 6,8 North Beach Street/4 Dolphin Court (42.1.4-65;65.1;65.2) SE48- 3518

Sitting Erisman, Golding, Engelbourg, Beale, Plandowski

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

Representative Brian Madden, LEC Environmental

Public None

Discussion (5:04) **Madden** – Reviewed the project, which is all within land subject to coastal storm flowage Elevation 7 and a buffer to an off-site bordering vegetated wetland (BVW). Submitted supplemental information and an update to the pull off area. Project has Planning Board approval. Incorporated rain barrels to collect roof runoff in areas not connected to subsurface infiltration. Explained the subsurface infiltration systems.

Erisman – She is very happy about the use of rain barrels.

Plandowski – The pool is 120sf, very small for a pool.

Madden – We labeled it as a pool but could label it differently.

Beale – Asked how deep the pool will be regarding depth to groundwater.

Madden – The top of pool is at Elevation 8 with existing grade at 4-5; the pool is about 4’ deep with just the foundation set into the ground above high groundwater.

Golding – Asked where the pool equipment will be located.

Madden – Believes the equipment will be interior to the building.

Staff recomm. It makes no difference to our jurisdiction if it’s a pool or spa; water treatment requirements are the same. Have everything needed to close.

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

Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Plandowski-aye; Williams recused

2. *Nantucket Islands Land Bank – 32 Western Avenue (87-81) SE48-3582 (**Cont. 11/10**)

3. *42/44 ARB Way, LLC – 9 Arbour Way (29-137) SE48-3589

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski

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

Representative David M. Haines, Haines Hydrogeologic Consulting

Public None

Discussion (5:14) **Haines** – This is to remove an existing house and reconstruct it as close to the road as possible and away from the wetland boundary. The 25’ buffer is currently lawn and will be revegetated with indigenous vegetation. Asking for net benefit waiver for work within 50’ buffer and NRA waiver for foundation footings within 2’ above the water table.

Golding – Asked if they plan to preserve the putting green. That would mean allowing new construction within the buffer just to keep the putting green.

Haines – Yes, that’s on the other side of the structure.

Engelbourg – The plant schedule is generally good, but 4 plants need review and revision: tufted hairgrass, eastern woodfern, blue wood aster, and wild bergamot.

Erisman – Asked if this project has an existing substantial deer fence. Wildlife needs to be able to access wetlands. Asked that staff look into the approval of the deer fence.

Haines – The previously approved plan had one; he didn’t notice one out there today. As he recalls, it was set 18” above ground.

Golding – If the fencing is on the beach club side, he doesn’t see how it interferes with migration. Deer would still have access from the Beach Side Inn.

Erisman – We need to allow them access to the wetland; she’s worried they would be forced to travel down the road.

Williams – There is plenty of room against the bank behind all the properties for deer; doesn’t think it would be an issue.

Beale – Thinks this major construction would be very impactful on the wetlands; there is plenty of room to build outside the 50’ buffer. The existing house doesn’t meet guidelines, and this would be a net improvement with a smaller intrusion into the 50’ buffer. The putting green is existing and was put in at great expense.

Engelbourg – It’s not our job to regulate other properties, just this property on its own. Regarding the new construction, he thinks the burden of proof is on the applicant to show there is no alternative; there appears to be plenty of room to have the structure outside the 50’ buffer. Asked the applicant to look into moving the structure out of the buffer and to come back with reasons they think it isn’t possible.

Haines – There are issues that need to be addressed; asked for a 2-week continuance.

Staff recomm. None
 Motion Continued to November 10th.
 Roll-call vote N/A

4. *Hallett Lane, LLC – 12 Almanack Pond Road (25-11) SE48-3587

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None

Discussion (5:32) **Madden** – This is for site improvements within boundaries for an isolated vegetated wetland and BVW. No work within the 25’ and no new structures within the 50’ buffer except to remove an existing deck. The pool and patio minimally extend into the 100’ buffer. The septic is upgrading to an I/A system. The pervious driveway will be reconfigured to the north side. No waivers are proposed. Waiting for Massachusetts Natural Heritage (MNH) so will have to continue. The closest flood zone elevation is 8 on the road; all site work is above elevation 22.

Erisman – She’s curious about how MNH will respond considering the wetland habitats.

Madden – Asked for a 2-week continuance.

Staff recomm. None
 Motion Continued to November 10th.
 Roll-call vote N/A

5. *Levin – 234 Madaket Road (59.4-120) SE48-3585

Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Brian Madden, LEC Environmental
 Public None

Discussion (5:38) **Madden** – This is for site improvements within boundaries for BVW. Proposing erosion control barriers along both sides of the gravel driveway. There will be infill work at the 1st floor within the 50’ buffer; there will be no adverse impact to the resource area. Also proposing a secondary dwelling and associated grading within 100’ buffer. Septic and pool are outside the 100’ buffer. Portions of the site are land subject to coastal storm flowage. Requested a no reasonable alternative/no adverse impact waiver for the waterline work. We are proposing subsurface infiltration to collect roof runoff.

Engelbourg – Asked if the infill will have a foundation.

Madden – It will be a shallow pour for a slab on grade and meet the 2’ separation.

Erisman – The highlighted map parcels were possible incorrect addresses; that needs to be corrected for the final submission.

Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

6. *34B Walsh Street Nominee Trust – 34B Walsh Street (29-104) SE48-3586 (Cont. 11/10)

7. *Tornovich Realty Trust – 21 Allens Lane (67-17) SE48-3584
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Public None
 Discussion (5:45) **Santos** – This is for construction of a single-family dwelling and associated grading and landscaping within the buffer to a BVW. The site is serviced by Town water and sewer. Modular construction will be on a full foundation with no waivers required.
Erisman – She’s concerned about permitting a structure on the 50’ buffer when there is an existing structure within the 50’. Asked if there is any proposed mitigation or willing to move the structure out of the 50’.
Santos – Moving the existing is not on the table; it was properly permitted by ConCom. The backside of the property is generally graded to the wetland buffer.
 Staff recomm. Have everything needed to close.
 Motion Motion to Close. (made by: Golding) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
8. *Nantucket Hotel Holdings, LLC – 77 Easton Street (42.1.1-35) SE48-3588
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Paul Santos, Nantucket Surveyors
 Mark Snider, owner
 Public None
 Discussion (5:51) **Santos** – This is to replace the “East Cottage” located on the rear of the hotel complex. Site is within the flood zone and buffer to a vegetated wetland to the north. The cottage will be move off or demolished and replaced with a modular structure of the same footprint. Work is approved by the Planning Board with the caveat that groundcover can’t be expanded. Reviewed the scope of construction with the flood zone in mind. Portion of the existing is within the 25’ setback. Asked for waivers but also provided a benefits analysis; reviewed the benefits analysis. Have not yet been before the Historic District Commission (HDC); want to have any structural alterations ready before doing that. The intent is to gain management housing and some additional guest rooms.
Engelbourg – Asked if any thought was given to elevation and renovating the existing rather than move-off and reconstruct; that would be less impactful to the buffer zones.
Snider – The building is antiquated and in poor condition; structurally it couldn’t handle being lifted.
Golding – The plan says 345sf is being removed; the drawings look like a substantial amount is being added in the terms of new deck. Confirmed the deck will allow water infiltration.
Santos – That’s the existing structure. The current structure is enclosed and obstructs all water flow. Drainage will be into the existing gravel area.
 Staff recomm. Have everything needed to close.
 Motion **Motion to Close.** (made by: Williams) (seconded)
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
9. *5 QPR, LLC – 5 Quaise Pastures Road (26-21) SE48-____
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Mark Rits, Site Design Engineering
 Public None
 Discussion (6:05) **Rits** – This is to construct a shed outside the 50’ buffer to a BVW and relocate pool equipment to behind the shed. Asked for a 2-week continuance.
 Staff recomm. We Don’t have the Department of Environmental Protection (DEP) number
 Motion Continued to November 10th.
 Roll-call vote N/A
10. *Steven L. Cohen, Trustee – 6 & 11 East Hallowell Lane (30-98 & 17) SE48-____
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Mark Rits, Site Design Engineering
 Public None
 Discussion (6:08) **Rits** – This is to redevelop the property; the existing structure is partially within the 50’ buffer to a coastal bank. Just 25’ of the northeast corner of the proposed structure intrudes into the 50’ buffer and 350sf of the deck. There isn’t much room to slide this house back. Reviewed other site work. Will replant any disturbed plantings within the 50’ buffer with existing vegetation, beach grass.
Beale – He doesn’t care for the encroachment into the 50’ buffer; would like it designed so as not to do that.
Erisman – It looks like the house is being expanded; if that expansion were reduced, it might be able to move more out of the 50’ buffer.
Engelbourg – He agrees entirely. Confirmed the deck footprint is a structural element not to be cantilevered.
Rits – The deck is currently slightly above ground; we’re replacing much that’s there but it being pulled away from the 25’ buffer with an overall reduction of about 90sf. Asked for a 2-week continuance.
 Staff recomm. Continued to November 10th.

Motion N/A
 Roll-call vote Carried 6-0//Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

B. Amended Order of Conditions

1. Philips Trustee – 19 East Tristram Avenue (31-4.1) SE48-3304 **(Withdrawn)**
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Representative Don Bracken, Bracken Engineering
 Discussion (6:16) None
 Motion **Motion to accept the withdrawal.** (made by: Engle) (seconded)
 Roll-call vote Carried 6-0// Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

III. PUBLIC MEETING

2. Stark Point, LLC – 16 Easton Street (42.1.4-11) SE48-3566 **(Cont. 11/10)**
 3. 41 Monomoy Road, LLC – 41 Monomoy Road (54-79.1) SE48-3536
 Sitting Erisman, Golding, Engelbourg, Beale, Plandowski
 Documentation Site and topographical plans, photos, requisite departmental reports, and correspondence.
 Representative Ryan Maxwell, Bracken Engineering
 Public None
 Discussion (6:16) **Maxwell** – The changes are to create a level lawn area below the pool and patio and relocate the pool equipment outside the 100’ buffer.
 Staff recomm. Recommend issuing
 Motion **Motion to Issue the amended order.** (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Beale, Engelbourg, Erisman, Golding, and Plandowski-aye; Williams recused

IV. PUBLIC MEETING

C. Requests for Determination of Applicability

1. Minella – 9 Gingly Lane (41-851)
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Representative Mark Rits, Site Design Engineering
 Staff recomm. Recommend Neg 3 work within buffer without NOI
 Discussion (6:19) **Rits** – This is to construct 2 small segments of retaining wall and filling and grading within 100’ buffer to off-site wetlands. All other structures are outside the 100’ buffer.
 Motion MTI as a Neg 3. (made by: Beale) (seconded)
 Roll-call vote Carried //Beale, Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
 2. M2D3 Irrevocable Trust – 31 Washing Pond Road (31-29)
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative Brian Madden, LEC Environmental
 Staff recomm. It’s hard to see; it’s heavy natural vegetation before you get to the pond; in his professional opinion, the vegetated buffer is substantial. We could condition to minimize the use of chemicals.
 Recommend a Negative 3 allowing work with minimization of agricultural chemicals.
 Discussion (6:21) **Madden** – Flagged the BVW along washing pond; project involves a deck with about 9’ encroachment into the 100’ buffer. The deck will be wood and spaced and supported by sono-tubes; there’s no significant change to the drainage pattern. There’s dense woody vegetation bordering the pond.
R.J. Turcotte, Nantucket Land Council – We just started sampling Washing Pond for water quality this year; as of today, it’s still experiencing a toxic algae bloom. Asked the Commission to require any runoff be infiltrated.
 Motion Motion to Issue as a Negative 3 with minimal use of agricultural chemicals. (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

D. Minor Modifications

1. 34 Easton Realty Truse – 34 Easton Street (42.1.4-18) SE48-3516
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Representative None
 Staff recomm. This is to install a geo-thermal well for a heating-cooling system.
 Recommend the issuing as a minor modification.
 Discussion (6:00) None
 Motion Motion to Issue a Minor Modification. (made by: Williams) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
 2. Family Ties ACK, LLC – 11 Alliance Lane (39-24.1) SE48-3457
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative Madden for Jeff Blackwell, Blackwell & Associates
 Staff recomm. Recommend issuing the Minor Modification
 Discussion (6:29) **Madden** – This is for minor revisions to the location of the structures; all remain outside the 50’ buffer. No waivers are required.
 Motion Motion to Issue a Minor Modification (made by: Williams) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

3. 196 Hummock Pond Road, LLC – 196 Hummock Pond Road (65-30) SE48-3538
 Sitting Erisman, Golding, Engelbourg, Beale, Williams, Plandowski
 Representative Haines
 Staff recomm. Recommend issuing the Minor Modification
 Discussion (6:30) **Haines** – This is to change 2 windows wells into a single window well, extend a dry-laid patio into the 50’ buffer, and convert the entryway to stairs. Meets regulations and within proposed limit of work.
 Motion **Motion to Issue.** (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

E. Certificates of Compliance

1. Reed Pond Nominee Trust – 129 & 137 Cliff Road (various) SE48-2284
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative None
 Staff recomm. This was for roadway construction; the permit was issued against all residential and roadway lots. This Certificates of Compliance is to close out that order on residential lot and leave open on roadway lot. Recommend a partial issue.
 Discussion (6:33) **Erisman** – We’re issuing the partial with no on-going conditions.
 Motion **Motion to Issue with no on-going conditions.** (made by: Williams) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

2. North by West, LLC – 75 Pocomo Road (15-7) SE48-2971
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative None
 Staff recomm. This was for brush cutting and installation of beach stairs. The beach stairs are constructed in compliance.
 Discussion (6:35) None
 Motion **Motion to Issue.** (made by: Engelbourg) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

3. Margaret P. Kelley Trust – 39 Quaise Road (26-3) SE48-1286
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative None
 Staff recomm. This is 1999 Order of Conditions. Construction is in compliance with no on-going conditions
 Discussion (6:36) None
 Motion **Motion to Issue.** (made by: Golding) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

4. Silver Fox Partners Real Estate, LLC – 235 Madaket Road (59.4-364) SE48-3121
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Representative None
 Staff recomm. After some repair and fixing, the site has been brought into compliance. There are on-going Conditions 21, 22, and 23 related to maintenance and operations of the pool.
 Discussion (6:37) None
 Motion **Motion to Issue with on-going Conditions 21, 22, and 23.** (made by: Williams) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

F. Orders of Condition

1. Brant Point Club, LLC – 6,8 North Beach Street/4 Dolphin Court (42.1.4-65;65.1;65.2) SE48-3518
 Sitting Erisman, Golding, Engelbourg, Plandowski
 Documentation Draft Order of Conditions
 Staff Reviewed conditions. Will modify Condition 23 requiring lighting to be in compliance with code.
 Discussion (6:39) **Engelbourg** – For lighting, you can’t direct downwards and away from land subject to coastal storm flowage.
 Motion Motion to Issue as amended. (made by: PLandowski) (seconded)
 Roll-call vote Carried 4-0//Engelbourg, Erisman, Golding, and Plandowski-aye; Williams recused

2. Boathouse Realty Trust – 52 Warrens Landing (38-28 &29) SE48-3579
 Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 Documentation Draft Order of Conditions
 Staff Reviewed conditions. The verbiage of amended the Condition 21 regarding sand compatibility.
 Discussion (6:44) **Golding** – Found a typographical error.
Engelbourg – Sand being “visually compatible” doesn’t really mean anything; we need a way to analyze that compatibility. Also, who would determine the compatibility.
 Motion Motion to Approve as amended. (made by: Engelbourg) (seconded)
 Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

- 3. Levin – 234 Madaket Road (59.4-120) SE48-3585
 - Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff Reviewed the conditions. Though the pool is outside our jurisdiction, We included the condition prohibiting draining into the resource area. Modified Condition 19.
There is an invasive plant disposal dumpster at the dump.
 - Discussion (6:50) **Engelbourg** – Condition 19, asked to add that all invasive species shall be removed and disposed of appropriately; that should be on all similar situations going forward.
 - Motion **Motion to Approve as amended.** (made by: Plandowski) (seconded)
 - Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
- 4. Tornovish Realty Trust – 21 Allens Lane (67-17) SE48-3584
 - Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff He will copy and paste the Condition from 234 Madaket Road into this. Added Condition 20 that light be in compliance with Town Code.
 - Discussion (6:56) **Erisman** – Asked if the lighting condition should be included.
 - Motion **Motion to Issue as amended.** (made by: Williams) (seconded)
 - Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye
- 5. Nantucket Hotel Holdings, LLC – 77 Easton Street (42.1.1-35) SE48-3588
 - Sitting Erisman, Golding, Engelbourg, Williams, Plandowski
 - Documentation Draft Order of Conditions
 - Staff He already changed Condition 19. There are a couple of sections of gutter stored into the buffer zone; have a condition to remove that and driveway debris. Added Condition 21 for lighting and Condition 22 for storing material and equipment.
 - Discussion (6:58) **Erisman** – Asked if this needs the lighting condition as well.
Engelbourg – Location of the building is constrained; he'd like a requirement that no material or equipment be stored within the 50' buffer.
 - Motion **Motion to Issue as amended.** (made by: Golding) (seconded)
 - Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

G. EXTENSION REQUEST

- 1. None

H. Other Business

- 1. Approval of Minutes 10/06/2022:

- Motion Continued to November 10th.
- Roll-call vote N/A

- 2. Monitoring Report – 16 Medouie Creek Road
- 3. Discussion of Regulatory Update

Carlson – The next meeting is scheduled for November 17th. He'll have the draft with the latest updates out to Commissioners before that.
Engelbourg – There was discussion of coordinating with Nantucket Biodiversity Initiative to update the invasive list.

- 4. Enforcement Actions/Potential Enforcement Actions
 - a. 2 Brock Court

- Sitting Erisman, Engelbourg, Beale, Williams, Plandowski
- Speakers Dan Mulloy, Site Design Engineering
Elizabeth Frazier, 2 Brock Court.

- Discussion (7:03) **Frazier** – She asked her gardener to get rid of Japanese knotweed; he mowed too much. She wants to be able to mow the knotweed twice a year. Three times she planted the required vegetation and 3 times it died; she can't afford to keep doing that. Asked permission to plant a Sycamore.
Carlson – What we saw was that it wasn't regularly mowed but the vegetated wetlands had been mowed and some of the planted shrubs had died. We also noted a small shed constructed without benefit of a permit adjacent to the parking area. Thinks we can put together a way to tackle the invasive species and come up with a better list of plants; some level of tree might be appropriate.
Williams – Sycamore maples are invasive.
Engelbourg – Given the variety of questions for the site, a true NOI might be the best way to approach this. Mowing knotweed is not environmentally sensitive or effective; it actually makes it spread laterally. In terms of plantings, there were open opportunities to seek an amendment or modification to change the planting list; that was never done.
Erisman – She agrees with Mr. Engelbourg. Asked if the new shed is within the 50' buffer.
Frazier – She placed the shed where it would be innocuous; she wasn't aware she was doing something wrong.
Erisman – We have to rectify this enforcement order; the best way to do this is for staff to work with Ms. Frazier and provide an NOI that fixes these problems.
Williams – She agrees that an NOI is necessary.
Frazier – She's been hounded about this for the past 8 years; asked for clarity as to why she is being singled out for wetland issues in this neighborhood; enumerated the other possible wetland issues of her neighbors.

Erisman – Anyone has the opportunity to report possible violations.

Carlson – There will be further reports regarding this area in general over the coming year.

Mulloy – It sounds clear to him, and he'll work with Mr. Carlson to come up with something to deal with this.

Motion No action at this time.

Roll-call vote N/A

b. 46 Monomoy Road

Sitting Erisman, Engelbourg, Beale, Williams, Plandowski

Speakers N/A

Discussion (7:19) **Carlson** – We, Health Department, Harbor Master, and the Police got reports of a pool being drained; the pool is outside our jurisdiction but was drained into land north of the property where the water ran down the road and onto the beach. We arrived on site with the Police and were able to smell the chlorine down the path onto the beach. We recovered sediment that smelled of chloring. This action scoured out the area within the buffer to the coastal beach and contaminated the beach. We are able to issue an enforcement action to mitigate impact to the resource area and buffer area. The BOH has issued a \$1000 fine; it's been reported to DEP; and the Harbor Master is in the process of issuing a ticket with a monetary fine.

Engelbourg – We should issue our fine. Asked if we know who did this.

Carlson – The Health Department contacted the company that did the work. We can have both the contractor and property owner named in the enforcement action. The company that did the work was highly cooperative.

Erisman – All pools should be pumped, and water disposed of at the wastewater treatment plant.

Golding – Asked how much water was discharged.

Carlson – John Hedden estimated around 25,000 gallons.

Williams – The Zoning Board of Appeals puts on a host of restrictions on pools in the VR zone in Madaket. Suggested looking at those and adapting them to the ConCom.

Engelbourg – Asked if the illicit discharge regulations have been implemented.

Carlson – Not yet. If the water was as chlorinated as we think, we could see damage to the plants where the dumping occurred.

Discussion about the possibility of increasing ConCom's violation fines.

Engelbourg – The regulations are specific about assessing fines against activity with an extended impact. Asked if there's a way to test if the chlorine is still there and assess a fine for each day it's there.

Carlson – DEP might get involved as well; if that happens, it opens a new toolbox for us to use. Criminal impact is best pursued by the Board of Health.

Plandowski – Asked if pool companies are licensed on the Island; if they were, the company should have the heavy burden of the fine.

Carlson – He agrees but the recording mechanisms are through the Health Department.

Golding – Asked if action like this could be used to remove a company's license.

Erisman – Being shamed in the paper is the best way to get compliance.

Motion **Motion to Issue the Enforcement Order and level associated fines to both the homeowner and contractor.** (made by: Engelbourg) (seconded)

Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

5. Reports:

a. CRAC, Golding

b. NP&EDC, Engelbourg

6. Commissioners Comment

a. Engelbourg – ConCom will have to appoint someone to the Harbor Plan Advisory Committee.

Williams – She would be willing to be the ConCom rep on that.

Erisman – We'll Roll-call vote on that on November 10th.

b. Golding – Welcomed Mr. Dell'Erba to the Staff

7. Administrator/Staff Reports

a. None

I. Adjournment

Motion **Motion to Adjourn at 7:45 pm.** (made by: Engelbourg) (seconded)

Roll-call vote Carried 5-0//Engelbourg, Erisman, Golding, Plandowski, and Williams-aye

Submitted by:

Terry L. Norton