

Eastham Conservation Commission

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**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
August 23, 2016
Public Hearing
MINUTES**

Commissioners Present: Chair Michael Harnett, James Baughman, Thomas Durkin, Alexander Cestaro and Shelia Filipowski.

Commissioners Not Present: Steven LaBranche.

Staff Present: Shana Brogan.

Also Present: Michael and Mary Moniz, Timothy Brady, David Goldfisher, James O'Toole, Lauren McKean, Barbara Reed, Pamela Drolsbaugh.

6:00 PM

Chair Harnett Opened the meeting.

Request for Amended Order of Conditions for DEP SE 19-1615 filed by Michael and Mary Moniz. Applicant proposes construction of a deck and storage area on a coastal bank at property located at 40 Smith Heights Way, Map 18, Parcel 054.

Timothy Brady represented the project with owner Michael Moniz. Mr. Brady explained the condition of the shed and said that the demolition materials would be removed on a barge. He said the 6" by 6" posts would be dug in by hand and that they propose to construct a deck and a shed on the deck for storing beach supplies. He said the project is located on a Coastal Bank and may be in a velocity zone. Michael Harnett stated that he wanted additional information on removal of the existing well house up the stairs because of the concern of debris and pollution and debris entering the resource area and they are taking materials into the resource not away from it. He also stated that they needed more information on the erosion of the proposed pile and there is no limit of work on the plan. Shana Brogan recommended that the project be reviewed by the Division of Marine Fisheries if it is going to involve access or activity below Mean High Water. James Baughman said he thought the project will be a net improvement for the coastal bank. Commissioners asked for information on why the deck and shed cannot be located in the upland.

Alexander Cestaro requested more details on the proposed removal of the structure because there are asphalt shingles, wood, and concrete and requested details on the size of the barge and the size of the tarps and they are going into a sensitive resource area. Decking spacing details light penetration to salt marsh and coastal bank vegetation was requested.

Timothy Brady responded that the proposed deck area would not have sides or a roof, and utilities are not proposed. Shana Brogan noted that mitigation was not proposed for the proposed increase in size of the structure and it being in the resource areas.

Michael Harnett requested details on moving the buildings elsewhere and why that could not be done as well as how the structure would survive the strong storms and erosion. Timothy Brady replied they would have a structural engineer look at it. Mr. Brady also replied they could set up tarps to catch the construction debris as they remove and clean up the debris each day.

Shana Brogan noted that it appeared there needed to be a detailed construction protocol submitted. Michael Harnett requested a protocol for why the debris could not be taken up the stairway. The applicant confirmed there are no utilities proposed.

Sheila Filipowski **MOVED** to continue to September 13, 2016, Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

Notice of Intent filed by Martha Hally and Howard Sherman. Applicant proposes vista pruning at property located at 215 Mary Chase Road, Map 18, Parcel 084.

Chairman Harnett read the definition of vista pruning. He stated the application was missing several details including: the proposed height of the vegetation, the number of trees proposed to be pruned, how often it would be done, the size of the area, and mitigation details. He also said the area is large and there was a concern raised about the impacts to wildlife habitat. The commission said the area should be reduced the area of pruning into corridors as well as different heights for the vegetation. James Baughman stated that a view would likely be improved if they just focused on invasive species removal.

Shana Brogan stated the area proposed to be topped is about 12,000 sq. ft. or about a quarter of an acre and there is no mitigation. Commissioners agreed the area proposed is large. Details showing the trees on the plan were requested and it was noted that the area is significant to wildlife habitat and that a time of year restriction would be needed and there needed to be varied heights for the vegetation. Sheila Filipowski expressed concern that the proposed pruning was so close to the salt marsh. Tim Brady said he would provide the commission with more details.

Sheila Filipowski **MOVED** to continue to September 13th Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

Notice of Intent filed by the National Park Service. Applicant proposes to replace and repair sections of red maple swamp boardwalk and pruning vegetation at property located at Hemenway Road, Map 26, Parcel 011.

Lauren McKean of the Cape Cod National Seashore represented the project. She stated that they propose on trial section for replacement of the boardwalk and propose an HDPE material for use on the entire boardwalk, including structural members. The vegetation on either side of the trail would be trimmed and NHESP comments received could be entered into the Order of Conditions. No materials would be left on-site. She also stated due to archaeological concerns, that any replaced posts, would be installed in the same holes. All brush would be chipped or carted away and the CCNS will work with the town for locations to store any dumpster or staging at Hemenway Landing parking area. It was agreed any cutting would be vacuum controlled.

James Baughman **MOVED** to approve, Sheila Filipowski **SECONDED**.
ALL IN FAVOR.

Continuation of Notice of Intent filed by Nicole Szesnat. Applicant proposes construction of a detached garage and driveway and construction of additions at property located at 35 Bowline Lane, Map 13, Parcel 056.

Timothy Brady represented the project. He noticed no excavating would be required and the limit of work was for workers. Tim Brady noted one shrub would be removed and transplanted back. Chairman Harnett noted that no mitigation was proposed and requested plantings for the size of the additions. Commissioners agreed on no mitigation for the project.

Alexander Cestaro **MOVED** to approve, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

Continuation of Notice of Intent filed by the Town of Eastham. Applicant proposes storm water and coastal flooding improvements to Cranberry Road and Cole Road beach parking area at property located at 43 Cranberry Lane, Map 13, Parcel 031.

The applicant requested a continuance to September 13, 2016.

Sheila Filipowski **MOVED** to continue to September 13th, 2016, Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

Continuation of Notice of Intent filed by Dana Gould. Applicant proposes placement of sand at property located at 60 Cove Road, Map 18, Parcel 050A.

Shana Brogan said she had not heard back from the applicant and said she informed him that he should submit new information or withdraw the application.

Alexander Cestaro **MOVED** to continue to September 13, 2016, Sheila Filipowski **SECONDED**.
ALL IN FAVOR.

Notice of Intent filed by Carol Steele. Applicant proposes raising existing rock revetment 3' and reconstruction of portion of existing revetment and stairway modifications at property located at 20 Gail's Way, Map, 07, Parcel 571.

This hearing was opened with DEP SE 19-1639. Timothy Brady represented the project.

Request for Amended Order of Conditions for DEP SE 19-1639 filed by Gail's Way Road Association. Applicant proposes raising an existing stone revetment at property located at Gail's Way, Map 07, Parcel 572 and 571.

Timothy Brady represented the requests. He explained this was a typical revetment project that would be conducted via Campground Beach parking area and the revetment needed some disassembly. He said it was proposed due to overtopping in severe storms.

Michael Harnett asked why they could not implement a soft solution such as coir and Timothy Brady replied that it would be more disturbance and this is what is being requested now due to the climate. Timothy Brady stated the project does propose nourishment annually. There was a question regarding who would be responsible for nourishment in the Gail's Way roadway and it was determined the owners on either side would be responsible for nourishment.

Shana Brogan recommended any stairway modifications be removable stairways that are removed for the winter season which was agreed upon with the applicant. She also recommended moving the revetment return away from the northerly neighbor to avoid adverse impacts to the area above their revetment caused by wave run up and wave refraction and splash over caused by the rocks. She noted this creates a domino effect increasing erosion and the northerly neighbor may not be able to afford repairs due to the effects increase. Commissioners disagreed as did the applicant who stated this is only done when the adjacent property has no revetment at all.

Alexander Cestaro **MOVED** to approve the project on 20 Gail's Way, James Baughman **SECONDED**.

Sheila Filipowski **OPPOSED**.

MOTION CARRIED.

Alexander Cestaro **MOVED** to approve the project in Gail's Way road layout, James Baughman **SECONDED**.
ALL IN FAVOR.

Request for Amended Order of Conditions for DEP SE 19-1607 filed by Anthony Mancini. Applicant proposes outdoor shower and boardwalk reconstruction at property located at 340 Salt Works Road, Map 04, Parcel 001.

Timothy Brady represented the project and noted the materials will be yellow cedar and the area will be replanted with beach grass.

Alexander Cestaro **MOVED** to approve the project, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

Request for Determination of Applicability filed by Edward Equi and Karen Scibinico. Applicant proposes 144 sq. ft. deck expansion and replacement of existing decking at property located at 130 Windjammer Lane, Map 19, Parcel 069.

Shana Brogan stated that the application is for a small deck increase in a disturbed area that currently has pavers and a stairway. A representative for the project stated there would be four sono-tubes, no pressure treated wood would be used for the project and any HDPE plastic-based decking would be cut vacuum assisted. Additionally, no surrounding vegetation is to be impacted and it is located approximately 85' from a salt marsh.

James Baughman **MOVED** to approve with conditions, Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

Request for Extension permit for DEP SE 19-1359 filed by Kate and Bruce Langsen for vista pruning at 95 Herring Brook Road, Map 17, Parcel 098.

Shana Brogan stated that the project was for topping oak trees and the oak trees are in good health.

The Conservation Commission unanimously voted to approve of a three year extension permit.

Administrative Reviews

Administrative Review filed by James Baughman. Applicant proposes to remove one dead and two infected pitch pine trees at 300 Samoset Road, Map 14, Parcel 135.

James Baughman recused himself.

James Baughman explained the reasoning for removal as the trees were infected with insects and their proximity to cars and a shed. He stated his preference was to not plant mitigation because the area was already well vegetated.

The Conservation Commission unanimously voted to approve the project.

Ratification of Administrative Review filed by Eastham Recreation Department for removal of three branches on tree at Great Pond beach for lifeguard line of sight, 185 Great Pond Road, Map 14, Parcel 097.

Shana Brogan stated that the branches were dead and are interfering with the lifeguard's ability to see in the swimming and beach area.

The Conservation Commission unanimously voted to approve the project.

Other Discussion

Unpermitted landscape work including pressure treated steps, gate, fencing and plantings and removal of vegetation at property located at 555 South Sunken Meadow Road, Map 01, Parcel 093.

David Goldfisher was present to speak to the violation. He stated he was not aware where the buffer zone was and did not know he needed a permit. The commission stated he had been before the commission in the past with applications for pruning and other work.

The commission voted unanimously that the owner was to file a site plan within 60 days.

Unpermitted reconstruction of dock in the waters of Herring Pond at property located at 60 Nickerson Road.

The owner James O'Toole was present to speak to the violation. He read a letter aloud to the commission which was later submitted for the record. The letter clarified the size of the dock, disputed the necessity for a permit, and stated that the dock has been repaired as needed over time and has been at the location for many years. Mr. O'Toole noted he read through the Wetlands Protection Act regulations and Eastham Wetlands Bylaw and upon reading them he questioned the need a permit for the repairs because he was not removing, filling or altering. He also noted that he was unable to find a way to lab test the pressure treated wood and upon receiving the letter he immediately replaced the work done with non-pressure treated wood. Shana Brogan clarified that she did not ask Mr. O'Toole to replace the pressure treated wood and that the section Mr. O'Toole was referring to of the Eastham Wetlands Bylaw regarding *repairing but not substantially changing or enlarging* is only applicable to structures or facilities used to serve the public. Mr. O'Toole disagreed. Shana Brogan provided a picture of the dock that was taken in the spring to the commission. The commission spent some time explaining that the activity does require a permit because it is in the resource area, structural repairs

were completed, and they want to be sure when work is done that it is completed in a way to protect the wetlands.

Alexander Cestaro **MOVED** to require the filing of a Notice of Intent within sixty days for the work already undertaken, Sheila Filipowski **SECONDED**.
ALL IN FAVOR.

Update - Unauthorized construction of a shed and removal of vegetation at property located at 100 Lawton Road, Map 14, Parcel 046.

Shana Brogan stated that a letter was mailed classified again and it was returned as undeliverable. Shana Brogan said she would check again with the tax collector's office as well as the Recreation Department to see if they have sold any permits.

Loyacano Letter, 105 Huckleberry Lane, Deck, DEP SE 19-1629.

The commission decided unanimously to require that the Order of Conditions be recorded at the Barnstable Registry of Deeds by October 1st and the commission would follow up on the matter within a year.

Update on the removal of a seasonal dock in the waters of Herring Pond at property located at 40 Nickerson Road, Map 14, Parcel 124.

Shana Brogan reported that the owner removed the dock and they have no intentions to put it back in the pond.

Liaison Reports (1651 Forest Advisory Committee, Community Preservation Committee, Open Space Committee)

Shana Brogan reported that the Open Space Committee has recently written a letter to the Board of Selectmen requesting their support to purchase land at 390 Locust Road. James Baughman responded that there is knotweed on the parcel or nearby and it could be a liability for the town. He said it is a cause for concern to purchase a parcel where the town would be responsible for managing it.

Approval of Minutes

May 10, 2016 – On-Site
May 24, 2016 – On-Site
June 14, 2016 – On-Site
June 26, 2016 – On-Site
July 12, 2016 – On-Site
July 26, 2016 – On-Site
August 9th, 2016 – Public Hearing

Alexander Cestaro **MOVED** to approve the minutes, Thomas Durkin **SECONDED**.
ALL IN FAVOR

8:58PM

Adjournment

Thomas Durkin MOVED to adjourn, Alexander Cestaro SECONDED.
ALL IN FAVOR.

Respectfully Submitted as prepared by,



Shana Brogan



Michael Harnett, Chairman
Conservation Commission