

# Eastham Conservation Commission

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**Eastham Conservation Commission  
2500 State Highway  
Earle Mountain Room  
August 11, 2015  
Public Hearing  
MINUTES**

**Commissioners Present:** Chair Michael Harnett, Steven Kleinberg, Steven LaBranche, James Baughman, Alexander Cestaro and Shelia Filipowski.

**Commissioners Not Present:** All commissioners present.

**Staff Present:** Shana Brogan.

**Also Present:** Tim Brady of East Cape Engineering, Russ Holden of Ryder & Wilcox, Duane Landreth of LaTanzi, Spaulding & Landreth, Shawn Shea of Misty Hill Landscaping, Catherine Ricks of Coastal Engineering, Rick Judd, Jay Najarian and Doug Label.

6:00 PM

Chairman Harnett opened the hearing.

**Notice of Intent filed by Mary Lou Monks. Applicant proposes an upgrade of an existing sewage disposal system consisting of a Mircofast wastewater treatment system located at 385 Harmes way, Map 01, Parcel112.**

Tim Brady of East Cape Engineering presented the project. He named the resource areas involved and noted they looked at the best location and best way to install the septic system. They have obtained variances from the Board of Health for the septic system. The design is an alternative treatment system and it will be above grade to keep it above ground water. Mr. Brady noted the need for a containing wall and it would be made of wood, concrete, or sheet pile. The existing septic would be removed. There is mostly beach grass in the location and they will re-vegetate after the septic is installed. They discussed looking at alternatives. Mr. Brady noted that Massachusetts Endangered Species Agency does require further filing for the project and he has completed the additional filing.

Mr. Brady noted that tight tanks are not normally approved by the Department of Environmental Protection (DEP) and they need to be pumped regularly. He noted a high risk of the tight tank having a hole smashed in it to allow water to leach into the ground to avoid paying for the pumping that is needed with a tight tank. Steve Kleinberg asked for more clarification as to why the DEP might not approve a tight tank. Mr. Brady noted he has thirty five years of experience dealing with DEP and tight tanks. He said the DEP will look at all other alternatives before considering a tight tank. There would be an impact to the dune and they could add a mound to help preserve it. James Baughman asked about the leaching field and what would happen when it

is inundated by water. Mr. Brady noted the septic would not be damaged, because it is protected by the containment wall. He said the water would flow over it and would just leaches down into the sand. Chairman Harnett asked if they looked at a composting system. Mr. Brady said the property owner would need to be an attentive owner and they are not convenient for maintenance of a composting system.

Sheila Filipowski asked what will be done to replant the disturbed area. Mr. Brady noted they plan to replant with beach grass. The septic system would be one foot below the ground and they do not want to plant anything with a lot of roots. Mr. Brady said they used the shallowest leaching system. Chairman Harnett asked for the limit of work to be reduced and Mr. Brady said he could make the limit of work a little smaller. Chairman Harnett asked were all the fill will go after the septic is dug out. Mr. Brady said it would be hauled away, but they may be able to use it as sand nourishment. He noted leaching systems are all basically the same and the location that was set due to proximity to the well. Mr. Brady said the whole place is a coastal dune and a septic system has to go somewhere. Mr. Brady noted they need a mitigation plan and said the area that is disturbed will be replanted.

James Baughman **MOVED** to approve the installation of the septic, Alexander Cestaro **SECONDED**.

**ALL IN FAVOR.**

**Notice of Intent filed by the Diana Digges. Applicant proposes construction of an addition and a covered porch and replacement of an existing driveway at property located at 835 Herring Brook Road, Map 13, Parcel 111.**

Russ Holden of Ryder Wilcox presented the project. Mr. Holden noted the addition and porch would be on sonotubes. He noted they proposed to replace the driveway with gravel and there may be some pruning of vegetation along the driveway. Mr. Holden assured the commission that all work debris would be contained and all work would be completed by hand. Chairman Harnett said there could be no dust from cutting the azeck. Alexander Cestaro asked about dry wells and gutters. Mr. Holden said no new dry wells would be installed. He noted that portions of existing deck would remain and some existing shrubs would remain in place.

James Baughman **MOVED** to approve the addition and porch, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by Joseph Morcaldi for the installation of a 5000 gallon tight tank for the septic system of an existing three bedroom seasonal dwelling located at 1 Bayberry Lane, Map 13, Parcel 143.**

Richard Judd was present to speak to the application. He noted the cesspool would be replaced with a tight tank. Steven Kleinberg asked if the tank will be measured by a company and if it will have a low-flow water toilet and shower. Mr. Judd noted the tank would be covered by one foot of soil. There is a proposed silt fence in the plan. The tight tank can have a large vehicle drive over it. Mr. Judd noted that tight tanks are not regulated by the Department of Environmental Protection, but that the towns have the jurisdiction to regulate.

Steven Kleinberg **MOVED** to approve the installation of the tight tank, James Baughman **SECONDED**.

**ALL IN FAVOR.**

**Continuation of Request for Amended Order of Conditions for DEP SE 19-1235. Applicant proposes after the fact installation of a planting plan at property located at 550 State Highway, Map 21, Parcel 076.**

Attorney Duane Landreth of LaTanzi, Spaulding & Landreth, Shawn Shea of Misty Hill Landscaping and Doug Label were present to speak to the project. Attorney Landreth noted all plants the commission asked to be removed were removed. He said they are now dealing with a revised planting plan. Attorney Landreth noted some of the history of the house and the original

Order of Conditions that were approved under the local bylaw. He said the landscaping notes were on the approved plan. There was discussion about the location of the generator pad.

Shawn Shea noted he would follow the removal of the bittersweet and honeysuckle with a time frame for work around birds and other wildlife. He said native shrubs will be planted along the bank. Steven LaBranche noted the commission asked for a herbicide license and noted the applicant admitted they did not implement the plan. Mr. LaBranche said that a license would be required for the use of herbicides to be carried out. Shawn Shea noted that a herbicide license would be provided. The commission would like the license requirement added to the Order of Conditions.

Chairman Harnett noted the irrigation system looked permanent and the irrigation system is to be removed. He suggested aerating and composting for the lawn. Chairman Harnett asked for information for turf management and noted it is not in the plan. The applicant said there is no plan to manage the turf and that there is no spraying planned. It was noted that stumps will be mechanical removed and will be flush cut. The stumps will be treated with herbicides and it will be applied by hand.

A split rail fence would be used to delineate the exclusive yard use area. Chairman Harnett noted the use of heavy mulch on the flower beds and said commission only allows a one time use of mulch. The commission requested annual monitoring reports with pictures.

James Baughman **MOVED** to continue to August 25, 2015, Alexander Cestaro **SECONDED**.  
**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Anthony Mancini. Applicant proposes reconstruction and enlargement of a second floor deck, reconstruction of an outdoor shower and construction of walkway at property located at 340 Salt Works Road, Map 04, Parcel 001.**

Tim Brady of East Cape Engineering was present to speak to the project and noted the project includes a deck re-construction with a small stairway. He said there is no-enlargement of the deck and it would be constructed of Alaskan yellow cedar and cumaru wood.

Steven Kleinberg **MOVED** to approve the reconstruction of deck and stairway, James Baughman **SECONDED**.

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Ken and Tara Mitchell. Applicant proposes construction of an 103' long coir envelopes to a height of elevation 19' and reconstruction of beach access stairway at property located at 365 Shurtleff Road, Map 07, Parcel 764.**

The applicant requested to withdraw the application.

Steven Kleinberg **MOVED** to accept withdrawal of project, James Baughman **SECONDED**.

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Katherine A. Mouchantat Trust. Applicant proposes 15' linear foot extension of rock revetment constructed up to elevation 16' at property located at 405 Shurtleff Road, Map 07, Parcel 145**

Katherine Ricks of Coastal Engineering was present to speak to the project. She noted the house is fifty feet from top of bank, but with the wave refraction there is a lot of erosion. The property next door was recently approved for a revetment so they would like to increase the fifteen liner feet to twenty five liner feet to close the gap between the two revetments. Chairman Harnett noted that there would still be a gap between the two revetments. Ms. Ricks noted Coastal Engineering is doing the work on both properties and the owners both agree they would like to close the gap. Ms. Ricks noted there will be an increase in sand nourishment.

James Baughman **MOVED** to approve the extension of the revetment, Steven LaBranche **SECONDED.**

**ALL IN FAVOR.**

**Continuation of Notice of Intent Filed by Pat Thomas and Judith Thomas Spang. Applicants propose to repair existing dock with eight support posts, replace cross members, and stringers on the underside of pier located at 1200 Herring Brook Road Map 13, Parcel 79-A.**

Pat Thomas was present to speak to the project. Alexander Cestaro noted concern about use of power equipment in the pond and wanted to make sure there was no use of power equipment in the pond. James Baughman noted this would include any gas power equipment, because gas could leak into the pond. Shana Brogan noted she would add no power tools are to be used in the building of the dock to the Order of Conditions. The applicant noted they did not need a silt curtain. Chairman Harnett noted there would be no need for a silt curtain if all the work is done by hand.

James Baughman **MOVED** to approve the repair on the existing dock, Shelia Filipowski **SECONDED.**

**ALL IN FAVOR.**

**Continuation of Request for Certificate of Compliance filed by Gary and Coleen Wolf for DEP SE 19-1398 for proposed relocation of an existing dwelling at property located at 500R Ocean View Drive, Map 24, Parcel 007.**

Gordon Peabody of Safe Harbor Environmental represented the project.

James Baughman **MOVED** to approve the Certificate of Compliance, Steven Kleinberg **SECONDED.**

**ALL IN FAVOR.**

**Request for change of plans filed by Timothy Vinciguerra for DEP SE 19-1535 for removal of non-native plants and replant with native plants. Project will be in two phases at property located at 15 Bowline Lane, Map 13, Parcel 54.**

Charles Wentz of Ponderosa Landscaping represented the applicant. He noted that a mugo pine and shrubs are to be removed mechanically and they will save the beach plum. Mr. Wentz noted there is drip irrigation and it will be physical removed. The grade will stay as it is now. The applicant would like to remove one black cherry tree. Mr. Wentz noted they will add seven beach plums in addition to the ones to be saved. The commission is allowing a one time mulching only and asked that the existing beach plums be tagged.

James Baughman **MOVED** to approve the removal of non-native plants and the re-planting with native plants, Steven Kleinberg **SECONDED.**

**ALL IN FAVOR.**

**Request for change of plans filed by Gail Bedoukian for front walkway plan located at 18 Horton Way, Map 15, Parcel 097M.**

Gail Bedoukian was present to speak to the project. She would like to add granite pavers set in screen spaced six inches apart. There would be three-fourths stone filler around the stepping stones for drainage. The drift fence would be wide enough to allow animals to pass. The commission requested the fence be left natural and asked for information on the sealants. Steven LaBranche recommended locust for the fence.

Steven LaBranche **MOVED** to approve the change in plans, Shelia Filipowski **SECONDED.**

**ALL IN FAVOR.**

**500 State Highway – violation of Order of Conditions for placement of kayak rack and storage of six kayaks on a salt marsh.**

Gordon Peabody was representing the owners. He noted he has notified the Lammers and has not heard back from them, but does plan on meeting with them. The commission said the kayak rack and kayaks must be removed in one week or they will issue fines. Shelia Filipowski noted it should be on record that the owner went against the Order of Conditions and a letter should be sent to the owners.

Shelia Filipowski **MOVED** to send a letter to the Lammers, Steven Kleinberg **SECONDED**.  
**ALL IN FAVOR.**

**Ratification and Review and Update of Enforcement Order for well line break issued to Stephen Greller, 245 Harmes Way Map 01, Parcel 106.**

The enforcement order was issued and it said the work can only be in the road way. The broken pipe was located in the marsh and an excavator was used in the marsh. The leak was repaired and the flooding has stopped. The enforcement order requires the applicant to file something with Conservation so they have an Order of Conditions when this happens again. Steven LaBranche asked if the excavated area was replanted. Shana Brogan noted they just replaced what was removed. She noted the enforcement order states that any area that is disturbed would need to be replanted. James Baughman noted the emergency is over and the next step is for the applicant to present a long term solution to the commission.

**Other Discussion**

**Review discussion and adoption of revised Filing Requirements Policy, last adopted in May of 2011, for required documents pertaining to a Notice of Intent filing prior to the scheduling of a public hearing, including items such as, but not limited to, specific narratives relating to the proposed work, restoration details and plans, narratives regarding adherence to applicable regulations, and alternatives analysis, and applicable calculations, specific construction plan details and information, resource area delineations and work and other applicable protocols.**

Chairman Harnett passed on information concerning the Mullin Rule and made note of the importance of having all the information at once for a hearing. He noted that when a hearing is allowed to go on for months it is difficult for the commission to vote on the project. All commissioners agree having all the information at once is a much needed plan.

**Preliminary discussion regarding process and content of new potential regulations under the Eastham Wetlands Bylaw.**

Chairman Harnett passed out information and gave instruction on finding policies and regulations that are already in place with other towns. The commission will divide the list of towns and will research the rules and regulation that are already in place in other towns. Once they have gathered the research they will review the rules and regulation they would like to implement.

**EverSource Correspondence**

EverSource is planning on spraying on the power line right-of-way in the town of Eastham.

**Liaison Reports**

Chairman Harnett announced he was appointed to the 1651 Forest Advisory Committee. James Baughman noted he attended the Community Preservation Committee meeting, and said that the funding for Open Space Committee and Recreation Department was tapped by land acquisitions. These land acquisitions include Terrapin Cove and the Dyer Prince area. He also noted that there are three hundred thousand dollars in the budget from 2017 through 2020. He noted they can pull funds from other areas if there was a need for it. He invited the commission to share ideas with a hearing with the Community Preservation Committee on September 2, 2015.

**Administrative Reviews**

**130 Windjammer Lane – Remove dying oak tree and prune limbs away from right side of garage located at Map 19, Parcel 69.**

The commission deferred this until the August 25, 2015 meeting.

**15 Lee Court – Remove dead black oak tree located at Map 11, Parcel 179.**

James Baughman **MOVED** to approve the tree removal, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**265 Harmes Way -Place a storage bin on beach in front of the dune, Map 01, Parcel 107.**

Steven Kleinberg **MOVED** to deny the storage bin, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**2209 State Highway – Remove three dead oak trees and leave stumps, Map 15, 097M.**

Steven Kleinberg **MOVED** to approve the tree removal, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**Approval of Minutes**

July 28, 2015

Steven LaBranche **MOVED** to approve, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

October 14, 2014

Steven LaBranche **MOVED** to approve, Steven Kleinberg **SECONDED**.

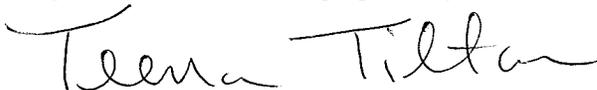
**ALL IN FAVOR.**

**Adjournment 8:50PM**

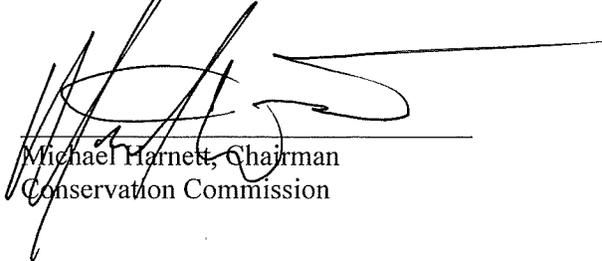
Steven LaBranche **MOVED** to adjourn, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

Respectfully Submitted as prepared by,



Teena Tilton

  
Michael Harnett, Chairman  
Conservation Commission