

Eastham Conservation Commission

555 Old Orchard Road
Eastham, MA 02642



508-240-5971
Fax 508-240-6687

**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
November 24, 2015
Public Hearing
MINUTES**

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

Commissioners Not Present: Steven LaBranche.

Staff Present: Shana Brogan.

Also Present: Catherine Ricks of Coastal Engineering, Lee Weishar of Woods Hole Group, Tim Brady of East Cape Engineering, David Lyttle of Ryder & Wilcox, Linda Pinto, Robert Manning, Noel Beyle, John D. Kaletski, Art Arturino & Attorney Glenn Wood.

6:00 PM

Chairman Harnett opened the hearing.

Notice of Intent filed by Ken & Tara Mitchell. Applicant proposes 103' rock revetment along the shoreline located at 365 Shurtleff Road, Map 07, Parcel 164.

Catherine Ricks of Coastal Engineering & Lee Weishar of Woods Hole Group, and Attorney Glenn Wood were present to speak to the project. Ms. Ricks went over the project and provided details on the revetment and noted there would be one hundred and eighty yards of annual nourishment. She also drew attention to other properties to the north and south that have revetments. Chairman Harnett noted Ms. Rick's argument is based on the missing document letter that the commission has not had a chance to review. He noted the commission cannot discuss the letter without reviewing it. Attorney Wood said they could discuss it, because there was an open hearing on the property. Chairman Harnett said the key point is the letter that they have not seen. He noted there is an order on the property that must be followed. Attorney Wood noted there is a wrong legal interpretation of the order for no coastal engineered structure.

James Baughman noted the commission does not have the power to grant a rock revetment and the commission did not have a chance to review the letter. Attorney Wood said he would strongly recommend an opinion from Town Counsel. Mr. Weishar said that it is not

true that the commission could not allow a rock revetment and he felt they could when situations occur through no fault of the homeowner. Attorney Wood noted the property was developed since 1950 and should be allowed to have a revetment.

James Baughman **MOVED** to continue to January 12, 2016, Shelia Filipowski
SECONDED.
ALL IN FAVOR.

Continuation of Notice of Intent filed by Ruth Colman. Applicant proposes extension of an existing deck, construction of a patio, and floor insulation beneath a section of the existing building supported by pilings at property located at 230 Salt Works Road, Map 04, Parcel 010.

Continuation of Request for Certificate of Compliance filed by Gerald & Ruth Colman for DEP SE 19-673 for an addition to an existing dwelling located at 230 Salt Works Road, Map 4, Parcel 010.

Tim Brady of East Cape Engineering was present to speak to the project. The commission agreed to open the Certificate of Compliance request for this property. Mr. Brady noted the buyer will assume responsibility for all open Order of Conditions on the property. Chairman Harnett asked about carrying over items on Orders of Conditions. Mr. Brady suggested allowing all three projects be rolled into one and the owner will clean up the old and new debris. Chairman Harnett noted his concern is that the old debris will be buried with the new project and would like to see the debris removed now. He suggested hiring someone to remove the debris before anything else proceeds. Mr. Brady noted the commission could deny the Certificate of Compliance and have the debris removed. Mr. Brady noted the commission could add a condition to the new Order of Conditions that requires all the old debris removed before any work starts.

James Baughman **MOVED** to deny the Certificate of Compliance, Sheila Filipowski
SECONDED.
ALL IN FAVOR.

Mr. Brady noted he submitted a revised plan on October 20, 2015 and provided more information on November 16, 2015. He noted the garage area construction would just be reframing. They are proposing a patio in the front area with a raised step. Chairman Harnett noted the commission would like to see the grade raised. Mr. Brady said the applicant would like a ten by ten area for the front entry and they would insulate under the floor. Area five includes a proposed stepping stone walkway and there was discussion regarding the stepping stones. Mr. Brady noted they would remove retaining wall under deck and add new sono tubes. Chairman Harnett requested a new mitigation plan and asked that item number three be changed to ten by ten area for front entry way.

Shana Brogan suggested a variety of plants for mitigation for all disturbed areas.

DISCUSSION TABLED UNTIL LATER IN THE MEETING.

Continuation of Notice of Intent filed by Warren & Erica Thaler. Applicant proposes beach sand nourishment at property located at 35 West Road, Map 04, Parcel 533.

Katherine Ricks was present to speak to the project. She noted the change on the plan for annual nourishment. The commissioners had no comments or question.

James Baughman **MOVED** to approve the beach nourishment, Alexander Cestaro
SECONDED.
ALL IN FAVOR.

Continuation of Notice of Intent filed by Michael & Mary Moniz. Applicant proposes three outdoor showers, construction of three wooden decks a screen porch, reconstruction of an existing wooden deck, demolishing and construction of an addition, removal of old shed and construction of a 6' x 13' shed on a coastal stairway at property located at 40 Smith Heights Way, Map 18, Parcel 054.

Applicant requested a continuance to December 8, 2015.

James Baughman **MOVED** to continue to December 8, 2015, Sheila Filipowski **SECONDED.**

ALL IN FAVOR.

Continuation of Notice of Intent filed by Pamela Nickerson. Applicant proposes to construct a 4-bedroom dwelling on a vacant parcel. The dwelling is proposed to be constructed outside of the 50 foot buffer zone at property located at 52A Dyer Prince Road, Map 20, Parcel 001B.

David Lyttle of Ryder & Wilcox was present to speak to the project and noted he revised the plan. The revised plan included a Cape Cod lawn and propose native foundation plantings. Mr. Lyttle noted the plan includes a tree thinning strategy that specifies starting at the limit of work. He noted the spacing of cedar trees and leaving tree clusters intact. Mr. Lyttle said this is an easy mitigation plan and the contractor would be approved prior to the mitigation implementation. He noted they would go out to the site and flag the cedars prior to removal. The commission requested an as-built plan submitted after construction.

James Baughman **MOVED** to approve the construction of a four bedroom dwelling, Sheila Filipowski **SECONDED.**

ALL IN FAVOR.

Continuation of Request for Determination of Applicability filed by Elizabeth Pratt. Applicant proposes installation of a septic system at property located at 180 Mill Road, Map 15, Parcel 020.

7:04PM

Linda Pinto was present to speak to the project and noted the limit of work was tightened up. She noted the sump pump was removed and a dry well was installed. Ms. Pinto noted she would use hay bales around the limit of work.

Sheila Filipowski **MOVED** to approve on a negative determination, Alexander Cestaro **SECONDED.**

ALL IN FAVOR.

Continuation of Notice of Intent filed by Ruth Colman. Applicant proposes extension of an existing deck, construction of a patio, and floor insulation beneath a section of the existing building supported by pilings at property located at 230 Salt Works Road, Map 04, Parcel 010.

Hearing REOPENED

James Baughman **MOVED** to approve the construction project, Alexander Cestaro **SECONDED.**

ALL IN FAVOR.

Continuation of Notice of Intent filed by Robert & Yasmina Manning. Applicant proposes replacement of concrete retaining wall and stairway at property located at 20 Cartway South, Map 16, Parcel 014B.

Bob Manning was present to speak to the project. Commissioners reviewed the plans and had no questions or concerns.

Alexander Cestaro **MOVED** move to approve the replacement of the retaining wall and stairway, Sheila Filipowski **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by the Town of Eastham. Applicant proposes to remove invasive plants, fallen trees and clearing adjacent to Minister's Pond. The project includes clearing a 5000 square foot area for outside classrooms and clearing approximately 1200 linear feet of trails at property located at 200 School House Road Map, 12, Parcel 070.

Shana Brogan noted the applicants were going before the Board of Selectmen prior to coming back to the commission.

Alexander Cestaro **MOVED** to continue to December 8, 2015 Thomas Durkin

SECONDED.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Thomas & Linda Cimillo. Applicant proposes demolition of a dwelling and construction of a new dwelling, installation of a new septic system and construction of a stone revetment at property located at 445 Turnip Road, Map 07, Parcel 491.

Applicant requested a continuance to December 8, 2015.

Alexander Cestaro **MOVED** to continue to December 8, 2015 Shelia Filipowski **SECONDED.**

ALL IN FAVOR.

Continuation of Request for Certificate of Compliance filed by John D. & Gwynne E. Kaletski for construction of a screened porch and deck (on sonotubes footings) and a covered entry and cantilevered addition on an existing single- family dwelling located at 190 Wind Jammer Lane, Map 19, Parcel 073.

John Kaletski was present to speak to the project and noted the only outstanding issue was the no mow zone.

James Baughman **MOVED** to approve with ongoing no mow zone condition, Alexander Cestaro **SECONDED.**

ALL IN FAVOR.

Request for change of plans filed by Gail Bedoukian for DEP SE 19-1564 for a revised front yard planting plan located at 18 Horton's Way Map 7, Parcel 493.

Applicant request a continuance to December 8, 2015.

Sheila Filipowski **MOVED** to continue to December 8, 2015, James Baughman **SECONDED.**

ALL IN FAVOR.

Shurtleff Road Violation – Unauthorized work without a permit using an excavator in the buffer zone to a coastal bank.

Noel Beyle noted he submitted a memo to the commission. He said the removal is miniscule incursion. He gave the history of the right of way and problems on the stairway. Said it is a problem for people trying to get to the beach. He mentioned the DPW depositing sand. Mr. Beyle proposed replanting the area with beach grass. Chairman Harnett talked about revegetating the cliff and said he wants the area to be restored back to the way it was. Chairman Harnett said he would not prefer to issue the enforcement order.

Art Arturino from the Bayberry Beach Association was present supporting Mr. Beyle and his proposal. Alexander Cestaro said the applicant needs to file a Notice of Intent with the commission.

Alexander Cestaro **MOVED** to issue an enforcement order, James Baughman **SECONDED**.

Shelia Filipowski **OPPOSED**.

MOTION CARRIED.

Request for Certificate of Compliance filed by Mary & Christopher Cormier landscaping work located at 420 Bridge Road, Map 20, Parcel 071.

Shana Brogan noted a landing area in which mowing was already done, and there was some dumping taking place. The commission requested the debris to be cleaned up and the applicant plant some native plants.

Shelia Filipowski **MOVED** to continue to January 12, 2016 James Baughman **SECONDED**.

ALL IN FAVOR.

Review of Conservation Restriction for 700 Dyer Prince Road Map 19, Parcel 043L.

The commission discussed the conservation restriction.

Request for Determination of Applicability filed by The Town of Eastham. Applicant proposes the use of a Kubota tractor to remove unmarked moorings, engine blocks, i-beams and cinder blocks located on the Coastal Beach (tidal flats) in Cape Cod Bay.

Alexander Cestaro suggest using a boat or a wheel barrow to remove the moorings.

Alexander Cestaro **MOVED** to approve if work is done by hand, Shelia Filipowski **SECONDED**.

ALL IN FAVOR.

The commission voted to not approve the use of the Kubota tractor.

Other Discussion

625 Kingsbury Beach Road – Unauthorized clearing without a permit next to a wetland.

The commission decided to address the unauthorized clearing when the homeowners file the Notice of Intent. If the homeowner does not file the commission would revisit the property in the future.

Liaison Reports

Chairman Harnett gave the Open Space report and noted James Baughman would put together a test plot to control invasive species. Mr. Baughman discussed the potential project and noted he was looking for land in town he can use as a test area. He is working with Peter Wade from the Open Space Committee.

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

The commission scheduled a work session on December 1, 2015 at 9:00 AM to review the regulations.

Cormorants

Shana Brogan to provide a copy of the written letter so the commissioners can review it.

Administrative Reviews

23 Keene Way- Replace deck and stairs in-kind using AZEK wood located at Map 19, Parcel 43J.

James Baughman **MOVED** to approve the deck replacement, Thomas Durkin **SECONDED.**

ALL IN FAVOR.

410 Windjammer Lane – Cut dead limbs and remove vines from trees located at Map 19, Parcel 092.

The commission would like to have a site visit at this property before making a decision.

725 N. Sunken Meadow Road - Remove one holly and two evergreen shrubs from front of house and replant hydrangea and all native plants located at Map 1, Parcel 044.

The commission ask that the homeowner replace the holly with 2:1 mitigation only on the front side of the house. Shana Brogan to provide a copy of the approved planting list to the applicant.

Shelia Filipowski **MOVED** to approve, Thomas Durkin **SECONDED.**

ALL IN FAVOR.

Approval of Minutes

May 26, 2015 On-Site	September 22, 2015 On-Site
June 30, 2015 On-Site	October 13, 2015 On-Site
July 14, 2015 On-Site	October 27, 2015 On-Site
July 28, 2015 On-Site	November 10, 2015 On-Site
August 11, 2015 On- Site	August 4, 2015 Work Session
August 25, 2015 On-Site	September 8, 2015 Executive

James Baughman **MOVED** to approve the minutes, Thomas Durkin **SECONDED.**

ALL IN FAVOR.

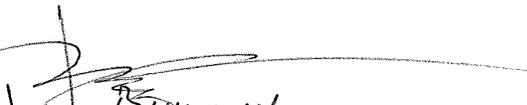
Adjournment 8:28 PM

Shelia Filipowski **MOVED** to adjourn, Thomas Durkin **SECONDED.**

ALL IN FAVOR.

Respectfully Submitted as prepared by,

Teena Tilton



Michael Harnett, Chairman *pro tem*
Conservation Commission