

Eastham Conservation Commission

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Eastham, MA 02642



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**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
March 10, 2015
Public Hearing
MINUTES**

Commissioners Present: Stephen Smith, Steven Kleinberg, Steven LaBranche, Michael Harnett and Mary Zdanowicz.

Commissioners Not Present: James Baughman.

Also Present: Kenneth MacPhee from Bartlett Tree Company, Brad Pennimon, Gregory C. Sands, Jane Fisher, Mark Beni, Carl Harris from Keene Way, Lindsay Strode of Cape Organics, Mark Burgess of Shorefront Consulting, Ryan Trahan and Mark White of Environmental Partners.

Chair Smith opened the meeting at 6:03PM.

Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes installation of a public water supply system including water mains, hydrants and service connections for contracts five and seven at property located at State Highway Route 6, Massasoit Road, Herring Brook Road, McKoy Road and various other side streets, Maps 1, 2 and 12.

Ryan Trahan of Environmental Partners represented the project. Mr. Trahan discussed contract five that includes Route 6 and contract seven that includes the northwest portion of the Town. He referred to sheet C-1 and noted the water main is within the paved road surface. He also stated they will be digging and back filling in the same day. The paved surface will be the same grade with no change to drainage. Mr. Trahan then went over the work near Salt Pond on Route 6. He referred to sheet C-10 and contract seven near McKoy Road. Mr. Trahan also mentioned Whepley Road and noted that has a small wetland area. They plan to use filter socks on both sides of the road, throughout the entire project and have a dewatering protocol if necessary.

Mary Zdanowicz **MOVED** to approve a negative determination for reason # 3, Steven Kleinberg **SECONDED**.
ALL IN FAVOR.

6:16PM

Notice of Intent filed by Paulo and Ellen Baltazar. Applicant proposes removal of an existing dock, construction of a 4' wide by 45' long permanent dock and 8' by 12' float and a permanent elevated walkway, associated salt marsh planting and construction of a 240 sq. ft. upland deck at property located at 285 Corliss Way, Map 21, Parcel 042.

Mark Burgess of Shorefront Consulting and Lindsay Strode of Cape Organics presented the project. The owner wants to rebuild their dock. The new dock would be four feet wide and be elevated two feet higher, and they proposed thirty-inch float stops to meet shellfish habitat requirements. The plan also proposed 1:1 mitigation for an additional area of vegetation in the buffer zone. They propose to restore the salt marsh underneath and monitoring will take place. They have reduced the number of piles. Mary Zdanowicz asked for credentials, and examples for what Lindsay Strode has done in the past.

Lindsay Strode noted there would be some degradation to the salt marsh. They plan to use a nine hundred gram mat. The mats have the ability to harvest the seeds. Mr. Strode also noted ice is a large challenge, because of the movement it could cause. He described a similar project in Chatham.

The commission noted no plants are proposed. Chairman Smith expressed concern about the deck in the No Mow Zone. Chairman Smith asked about taking the deck out of the No Mow Zone. Michael Harnett asked what would be the survival rate of the salt marsh grass. Lindsay Strode said the grass usually has an eighty percent success rate depending on the winter weather. Mark Burgess said the stairs from the elevated walkway would land on the rocks. The upland deck is proposed to be one foot off the ground and will not have a handrail.

Chairman Smith expressed concern about the run off on the upland deck. Mr. Burgess noted the area under the dock did have shellfish, but it did not have a lot. Chairman Smith requested to see the Order of Conditions for the house re-construction. Chairman Smith noted that the reason for the vegetated buffer was to collect run off. Mark Burgess noted there is no proposed specific path to the deck and dock. Mary Zdanowicz asked why there is no proposed path. The location of the vegetated buffer was discussed. Chairman Smith said they are negating the no mow zone, because the deck is in it. Mark Burgess stated the pathway would be mowed about four feet wide. Chairman Smith requested a demarcation of the no mow zone so it is clear to all.

Mary Zdanowicz and Chairman Smith asked for more of a construction protocol. Mark Burgess said if a barge could not reach the work area they would use a tripod. He also stated the rest of the work will be done by hand. Mr. Burgess noted the piles may be jetted at the beginning and then the piles are driven. Shana Brogan suggested a site visit and asked that the project site be delineated in the field. Mary Zdanowicz asked for more of a salt marsh protocol. The commissioners also requested a monitoring protocol, and that the fifty and one hundred foot buffer zone to be marked on the plan. Michael Harnett asked for some way to mitigate the shellfish population.

Steven Kleinberg **MOVED** to continue to March 24, 2015, Mary Zdanowicz

SECONDED.

ALL IN FAVOR.

7:11PM

Notice of Intent filed by Daniel and Donna McCormick. Applicant proposes removal of a privet hedge and treatment with herbicide, clearing approximately 7,000 sq ft of vegetation on and adjacent to a coastal bank and Salt Marsh and application of herbicides, removal of two trees and pruning of a maple tree, and native plant restoration and removal and replacement of decks and walkways at property located at 30 Richard Lane, Map 21, Parcel 062D.

Tim Brady of East Cape Engineering and Lindsay Strode of Cape Organics presented the project. Mr. Brady explained the main part of the project is the coastal bank and the re-vegetation plan. Mr. Brady said the coastal bank is covered with a lot of invasive vines and no grading is proposed. The proposed plan includes replacing deck boarding and he is not sure what material he will use for the deck. The shed is also proposed to be re-shingled.

Lindsay Strode noted he was looking to restore the indigenous vegetation to the area, and said they propose to cut and wipe herbicides on the area. There would be protocols for monitoring and maintenance. They propose to use Canadian rye at the beginning. The access area is landscape area. Lilac would not need to be restored.

Steven LaBranche requested a list of the invasive plants on the bank. Chairman Smith noted this is a large project in a sensitive area and the plan has a small number of plantings. Chairman Smith was also concerned because they are proposing removal of the privet hedge on the coastal bank, but keeping the privet hedge in other areas of the property. Mr. Strode does not think the bank needs an erosion blanket and the herbicide application is direct application, and they will use recommended amounts of herbicides. Chairman Smith asked the volume of herbicide to be used. Mr. Strode noted they typically use a dye in the herbicide. Mary Zdanowicz asked information on what the dye is for in the herbicide. Michael Harnett asked what would replace the privet hedge, because it does not appear that anything will.

Mr. Strode noted the seed will provide ample coverage to provide stability and it is detrimental to plant vegetation to closely together. Chairman Smith requested the square footage of the bank. Mr. Brady will add the fifty foot and one hundred foot buffer zone to the plan. The commission will do a site visit on March 24, 2015. Michael Harnett asked for more monitoring in the spring and fall. Mr. Strode said anytime they are spraying they would also use the painting application. He noted they use it at a timeline that is most effective and are treating very specific areas. Chairman Smith noted there are problems when herbicides are used. He also pointed out that there are shellfish aquaculture grants nearby.

Mary Zdanowicz **MOVED** to continue to April 14, 2015, Steven Kleinberg

SECONDED.

ALL IN FAVOR.

7:45PM

Continuation of Notice of Intent filed by Ken and Tara Mitchell. Applicant proposes construction of an 103' long rock revetment 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 a continuance until March 24, 2015.

Steven LaBranche **MOVED** to continue to March 24, 2015, Mary Zdanowicz
SECONDED.
ALL IN FAVOR.

Continuation of Notice of Intent filed by Elizabeth Simmons. Applicant proposes construction of an 124' long rock revetment to a height of elevation 19' and reconstruction of a beach access stairway at property located at 385 Shurtleff Road, Map 07, Parcel 163.

The applicant requested a continuance until March 24, 2015.

Mary Zdanowicz **MOVED** to continue to March 24, 2015, Michael Harnett
SECONDED.

ALL IN FAVOR.

Continuation of Request for Amended Order of Conditions filed by the Town of Eastham. Applicant proposes vehicular access over South Sunken Meadow Beach and tidal areas to shellfish aquaculture growing sites from October through May at property located at South Sunken Meadow Beach, Map 01, Parcel 097.

The commission deferred the project until April 14, 2015.

Mary Zdanowicz **MOVED** to continue to April 14, 2015, Steven LaBranche
SECONDED.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Albert Wolf. Applicant proposes removal of invasive vegetation and removal of three trees and planting native plants at property located at 235 Corliss Way, Map 18, Parcel 006.

The applicant requested a continuance until March 24, 2015.

Mary Zdanowicz **MOVED** to continue to March 24, 2015, Steven Kleinberg
SECONDED.

ALL IN FAVOR.

Continuation of Request for Amended existing Order of Conditions filed by Mary Jane and Frans Cramer. Applicant proposes to construct an elevated 4 foot wide walkway from the driveway to the house using cedar framing and mahogany at property located at 325 Harmes Way, Map 1, Parcel 109.

The applicant requested a continuance until March 24, 2015.

Steven LaBranche **MOVED** to continue to March 24, 2015, Michael Harnett
SECONDED.

ALL IN FAVOR.

Continuation of Notice of Intent filed by James Jestude. Applicant proposes a storage shed to be constructed adjacent to an isolated vegetated wetland and adjacent to a 100-year flood zone located at 80 Goody Hallett Road, Map 20, Parcel 17.

The applicant requested a continuance until March 24, 2015

Steven LaBranche **MOVED** to continue to March 24, 2015, Mary Zdanowicz
SECONDED.

ALL IN FAVOR.

Continuation of Request for Certificate of Compliance filed by Robert and Grechen Robinson for DEP SE 19-1282 for removal of an existing dwelling and construction of a new dwelling, installation of a new septic system, installation of a timber retaining wall, and driveway improvements and planting plan at property located at 18 Asparagus Lane, Map 19, Parcel 036.

The applicant requested a continuance until May 26, 2015.

Mary Zdanowicz **MOVED** to continue to May 26, 2015, Michael Harnett **SECONDED**.
ALL IN FAVOR.

Continuation of Request for Certificate of Compliance filed by Frank and Margaret Vangeli for DEP SE 19-1248 for installation of fiber rolls and drift fence at property located at 27 Longstreet Lane, Map 10, Parcel 333.

The applicant requested a continuance until May 12, 2015.

Mary Zdanowicz **MOVED** to continue to May 12, 2015, Michael Harnett **SECONDED**.
ALL IN FAVOR.

Other Discussion

Unauthorized construction of a retaining wall and deck replacement at property located at 23 Keene Way, Map 19, Parcel 043.

Carl Harris accepted responsibility for the unauthorized construction. Mr. Harris noted the retaining wall was cracking and needed to be replaced. The path with stepping stones was always there. Mr. Harris said they made it exactly as it was, and looked at it as maintenance. He also noted beach grass was planted. The boards were rotting so they replaced the deck with azek, and they added a chair barrier for safety reasons. Chairman Smith said the commission does not prefer the decking material. The commission does not allow pressure treated wood. Mr. Harris said he would find out what material was used and inform the commission. The commission would also like the name of the contractor who did the work. The commission was ok with an after the fact filing of an administrative review. Mary Zdanowicz asked about regrading. Mr. Harris said there is no regrading.

Mary Zdanowicz **MOVED** to approve an after the fact Administrative Review application and submittal of contractor's name, Michael Harnett **SECONDED**.
ALL IN FAVOR.

550 State Highway, Map 21, Parcel 76B, Installation of unauthorized planting plan.

Shana Brogan informed the commission that the owner has hired a lawyer and he will be present at the March 24, 2015 to speak to the violation.

NSTAR - discussion regarding correspondence with right- of- way management

Steven Kleinberg noted the town of Eastham is on record as being very clear as to their position, and the commission can echo the sentiments. The commission would like to know how Nstar delineates the wetlands to ensure they are ten feet from them.

The spraying in certain conditions need to be address. Steven Kleinberg noted the spraying errors are well documented, and Nstar should stick to protocols. There was discussion about the herbicides, and the fact that the protocols were not followed.

Chairman Smith noted the oak trees could be exhausted from the spray. It was also noted that 2009 was the last time Nstar did any cutting.

Steven Kleinberg **MOVED** to issue a letter to Nstar and attend the Board Of Selectman meeting, Mary Zdanowicz **SECONDED**.

MOTION CARRIED.

Steven LaBranche **ABSTAINED.**

8:05PM

Administrative Reviews

30 Lee Court – removal of 1 fallen pitch pine tree and 2 leaning pitch pine trees.

Kenneth MacPhee from Bartlett Tree Company was present and noted a locust tree was removed due to storm damage.

Mary Zdanowicz **MOVED** to approve the Administrative Review, Michael Harnett **SECONDED.**

ALL IN FAVOR.

Approval of Minutes

February 3, 2015.

Steven LaBranche **MOVED** to approve the minutes, Mary Zdanowicz **SECONDED.**

ALL IN FAVOR.

February 10, 2015.

Michael Harnett **MOVED** to approve the minutes, Steven LaBranche **SECONDED.**

ALL IN FAVOR.

February 24, 2015.

Steven Labranche **MOVED** to approve the minutes, Michael Harnett **SECONDED.**

ALL IN FAVOR.

A work session was scheduled for March 17, 2015 at 8:15 AM.

8:40PM

Adjournment

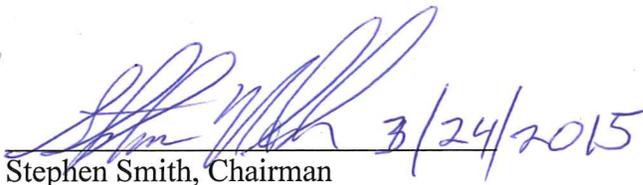
Steven LaBranche **MOVED** to adjourn, Mary Zdanowicz **SECONDED.**

ALL IN FAVOR.

Respectfully Submitted as prepared by,



Teena Tilton



Stephen Smith, Chairman
Conservation Commission