

# Eastham Conservation Commission

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

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

**Commissioners Not Present:** James Baughman.

**Staff Present:** Shana Brogan.

**Also Present:** David Lyttle of Ryder & Wilcox, David Hawk of Hawk Design, Dawn Skiba, Ted Skiba, Charles Wentz of Ponderosa Landscaping, Edward Molyneaux, Jason Ellis of J.C. Ellis Design, Attorney Duane Landreth of La Tanzi Spaulding & Laudreth, Doug Lebel, James Arnold and Michael McCarthy.

6:00 PM

Chair Smith opened the hearing.

**Review of vista pruning plan for DEP SE 191437, for vista pruning at property located at 10 Drake Circle, Map 17, Parcel 538.**

Edward Molyneaux was present to speak to the plan. He noted he went over the plan with Ken McFee of Bartlett Tree Service and color coded all the trees that are to be pruned. Shana Brogan noted the trees were not to be pruned shorter than nine and half feet. Pruning is not to occur between May fifteen and the fall.

Steven LaBranche **MOVED** to approve the vista pruning, Michael Harnett **SECONDED**.  
**ALL IN FAVOR.**

**Notice of Intent filed by Edward Holleran. Applicant proposes installation of an in-ground swimming pool and pergola, associated masonry deck and fence, and proposed resurfacing of impervious patios and planting non-native and native plants at property located at 210 Sunset Ave, Map 19, Parcel 042.**

David Lyttle of Ryder and Wilcox and David Hawk of Hawk Design presented the project. Mr. Lyttle said the Natural Heritage of Endangered Species Program approves of the project. He also assured the commission that they would have turtle sweeps within the limit of work area, and would send observation forms to Natural Heritage. Mr. Hawk

went over mitigation area, non-native evergreens and non- native plants in the area. He also noted the pool area patio plants are to be dry set. The approximate area that would be disturbed is four thousand – nine hundred square feet.

Chairman Smith noted the area is on the edge of a sandplain heathland. He also asked what kind of pool was proposed to be installed, and where the filters would be located. Chairman Smith noted they need to know the land area that would be excavated for the pool. He also would like to see the plan for how the patio would be dry laid. Chairman Smith said they need to address the sandplain heathland.

Shana Brogan asked for details on the proposed planting plan and the ornamental plants. She will check into the prickly pear. The applicant said the pool is to be salt. Mary Zdanowicz requested Material Safety Data Sheets for any materials that would be used. She also asked what type of equipment would be used. Ms. Zdanowicz asked who would construct the pool and how the pool would benefit the site. Chairman Smith asked about a note for non - pressure treated wood. He also asked about work that is currently being done on the cedar shingles of the house. Mr. Lyttle said he did not know the contractor was doing work on the house. He said the owners got a building permit for the work. Chairman Smith said the owner should have requested a permit from conservation also. Mr. Lyttle requested the conservation commission send a letter to the building department that a conservation permit is required.

Steven Kleinberg **MOVED** to continue to April 28, 2015, Steven LaBranche **SECONDED.**

**ALL IN FAVOR.**

**Notice of Intent filed by David Lawson. Applicant proposes restoration of native vegetation and installation of a split rail fence at property located at 175 and 195 Herring Brook Road, Map 17, Parcel 494 and 493A.**

Michael McCarthy represented the applicant. The applicant propose to replace the trees in-kind and to ensure the plants grow they propose to install irrigation. Chairman Smith noted the split rail fence should go to boundary to corner boundary. Mr. McCarthy said the vegetation is very thick and more may need to be cut down to install the fence the way Chairman Smith suggested. Chairman Smith suggested a site visit. Dawn Skiba noted that the vegetation is thick, but it is their vegetation.

Mary Zdanowicz **MOVED** to continue to April 14, 2015, Michael Harnett **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 a continuance to April 14, 2015.

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

Charles Wentz of Ponderosa Landscaping was present to speak to the project. Mr. Wentz noted that about ten feet of the yard would be grass area. He proposed to selectively prune the trees so that they do not blow over and noted this can be done in the spring or fall. He also proposed to hand prune the bittersweet to keep it from the new plantings. Mr. Wentz noted staking the site would make it easier to see.

Chairman Smith noted he was not sure worrying about trees falling over is good for the resource. He also noted an unpermitted stairway, irrigation system installed, and excessive boats at the dock area and the need for an Order of Conditions for proper boat storage.

Steven LaBranche asked what kind of grass seed would be used. Mr. Wentz said the sumac was doing no harm and could be left alone. Mr. LaBranche noted the cut and swipe of herbicide would cause fewer disturbances near the planting area. Chairman Smith said they would need to know what kind of herbicides, the volume, and the name of licensed applicator. Mary Zdanowicz asked for more detailed annual monitoring of invasive removal. She also said they would need to know who is doing the work if it is not going to be Ponderosa.

Michael Harnett **MOVED** to continue to April 14, 2015, Steven LaBranche **SECONDED.**

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Douglas Wood and Betty Green. Applicant proposes a septic system upgrade and installation of a new well at property located at 400 Crosby Village Road, Map 14, Parcel 196.**

Jason Ellis of J.C. Ellis Design was present to speak to the project. Mr. Ellis said they were not proposing to take down any trees. He did note one spreading oak will need limbs removed. Mary Zdanowicz asked for a land surveyor to stamp the plan. Chairman Smith said the stamped surveyed plans must be submitted to Shana Brogan, before the Order of Conditions is issued for this project.

Michael Harnett **MOVED** to approve the septic upgrade and new well, as long as, the stamped survey plans are submitted, Mary Zdanowicz **SECONDED.**

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Brian Ridgeway and Brenda Vecchione. Applicant proposes construction of an addition, removal of invasive vegetation and pruning vegetation at property located at, 250 Crosby Village Road, Map 14, Parcel 205A.**

Jason Ellis of J.C. Ellis Design was present to speak to the project. The commission was under the assumption that this meeting was continued, so they did not bring their plans or

keep project details. Mr. Ellis asked for more details of what the commission would need to get the project approved for the next meeting. Shana Brogan said she could go over the plans with Mr. Ellis next week and let him know what the commission would be looking for with his project. Mr. Ellis said the reason for the site visit was for the commission to see what else he may need to do to move the project forward. Chairman Smith noted that during the site visit he saw all the trees that the applicant wanted to remove, but expressed concern now that he knows a bald eagle lives in the area. Chairman Smith said that cutting down those trees would take away fifteen to eighteen perches for the birds. He also noted that the safety to the house reason was not justified, because some of the trees were thirty feet away from the house.

Mary Zdanowicz noted she did not believe the commission should be having such an informal discussion on a hearing that was continued. Mr. Ellis said the project was not continued. Shana Brogan said she assumed the meeting was continued, because Mr. Ellis did not submit the additional information the commission requested by the deadline it was due. Mary Zdanowicz asked Mr. Ellis if he submitted the additional information. Mr. Ellis said that he did not submit the information and was waiting on the site visit to see if the commission would require anything else be submitted. Chairman Smith noted that the commission could not pre-form what should be on the plan. Michael Harnett stated the commission could not answer Mr. Ellis's question and the commission should end the discussion now. He suggested to either continue the project or vote on it now as it stands. Mr. Harnett noted if they vote now it would be a denial of the project, because Mr. Ellis has not submitted the additional information the commission requested. Chairman Smith noted all additional information requested by the commission should be submitted before the site visit, so the commission has a better understanding of what is proposed in the project. Mary Zdanowicz noted they need to see all the information they have already requested, before they can determine if they need more information.

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

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by David and Theresa Hale. Applicant proposes relocation of a beach access stairway, construction of an elevated walkway, installation of sand-drift fencing and beach nourishment at property located at 75 Bay View Drive, Map 13, Parcel 013.**

Jason Ellis of J.C. Ellis Design was present to speak to the project. Mr. Ellis noted he was waiting on a report from Greg Berman. Mary Zdanowicz noted there was a question about ownership. She said the application should be signed by the property owner or give written permission for someone else to sign the application.

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

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Dennis Ruh. Applicant proposes deck expansion and construction of a screened porch over an existing deck at property located at 65 Bay View Drive, Map 13, Parcel 015.**

Jason Ellis of J.C. Ellis Design was present to speak to the project. Mr. Ellis noted he was waiting on a report from Greg Berman.

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

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by James Arnold. Applicant proposes construction of an addition and deck at property located at 725 Bridge Road, Map 19, Parcel 002.**

David Lyttle of Ryder & Wilcox and James Arnold were present to speak to the project. Mr. Lyttle and Mr. Arnold met with Misty Hill Landscaping and they have proposed a 2:1 mitigation list. A split rail fence was required as part of the Order of Conditions. Mr. Lyttle said there is no other area for the addition, because there is little area to expand. He noted that they could not extend into the resource area of the flood zone and it was determined that this would be the best area. Mr. Lyttle everything would be on hand dug sonotube footings.

Mr. Arnold acknowledged pressure-treated post were used and installed by Landmark Fence. He will have them taken out. Mary Zdanowicz said they would let LandMark Fence know about the pressure treated policy. Mr. Arnold said cedar does not hold up in the area, but they would replace the post.

Shana Brogan asked for the pruning corridor to be marked in the field. Ms. Brogan will look into the previous Order of Conditions for the view corridor. The commission did not have many concerns with the overall concept of the project. Chairman Smith expressed concerns about the run off. Mr. Lyttle noted they would provide mitigation and the owner fully intends to naturalize the whole property. Mr. Arnold wanted to know if the overall footprint is acceptable with the commission.

Steven Kleinberg **MOVED** to continue to April 28, 2015, Mary Zdanowicz **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 requests a continuance until April 14, 2015.

Michael Harnett **MOVED** to continue to April 14, 2015, Steven Kleinberg **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.**

Tim Brady of East Cape Engineering represented the applicant. Mr. Brady addressed where they have placed the shed in the proposed plan. He also noted there is no other storage and this storage is just for beach equipment and kayaks. Mr. Brady said there are not that many trees to be removed in the area. Mr. Brady noted they could move the shed six feet from the driveway, and that he could plant blueberry bushes in the two hundred and eighty square foot area. Shana Brogan noted that the 2:1 mitigation actually would

require five hundred and sixty square footage of mitigation along the wetland. Mr. Brady will revise the plan and get it back to the commission. He also noted there would be no re-grading involved with the project. The new plan will show the shed closer to the driveway and the Order of Conditions will not be issued without the changes.

There will be no stamped plan. Limit of work will move in with the shed and be a little smaller.

Steven Kleinberg **MOVED** to approve the shed, Michael Harnett **SECONDED**.

**ALL IN FAVOR.**

**Continuation of 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.**

The commission deferred this until later in the meeting so the applicant can be present.

### **Other Discussion**

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

Attorney Duane Landreth of La Tanzi Spaulding & Landreth and Doug Lebel were present to speak to the project. Attorney Landreth noted the house has a complicated history and went over the history. He said there was confusion about the originally amended plan on page two. They have submitted a new plan showing the plants to be removed in the fifty foot buffer zone and retain the foundation plants to the house. Attorney Landreth said the violation was not intended.

Attorney Landreth noted the majority of the invasive removal was followed and Jason Manera Landscaper did the work. Attorney Landreth wanted to resolve the issue of the enforcement order and noted they are in good faith. He wants a reading from the commission if the proposed plan is what they required. Shana Brogan will look at the Wilkinson plan and email it to the Attorney Landreth.

Mary Zdanowicz **MOVED** to approve to extend the deadline for plantings to be removed by May 1, 2015, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR**

The commission requested native maritime shrubs to be included in the planting plan in the coastal bank.

Mary Zdanowicz **MOVED** for the applicants to file an Amended Order of Conditions for April 28, 2015, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

### **Storm clean up update**

Steven LaBranche noted they are finding the sand drift fences end up with a lot of wrack behind them and are trying to get away from modified sand drift fences. Chairman Smith noted the spacing of the fences should be equal or greater to the slats.

### **Administrative Reviews**

**After the fact, 23 Keene Way, replacement of a retaining wall, decking and bench.**

Shana Brogan noted Carl Harris provided her with name of the contractor that did the work and also with all the other information requested.

Michael Harnett **MOVED** to approve retaining wall, decking and bench, Mary Zdanowicz **SECONDED**.

**ALL IN FAVOR.**

#### **Extension Permit Request**

**Request for extension permit for DEP SE 19- 1323, 19-1324, and 19-1325 for vegetation maintenance at property located at Cartway South, Map 16, Parcels 14A, 14B and 13.**

Mary Zdanowicz **MOVED** to extend permit, Michael Harnett **SECONDED**.

**ALL IN FAVOR.**

#### **Approval of Minutes**

March 10, 2015

Michael Harnett **MOVED** to approve minutes, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

December 09, 2014

Michael Harnett **MOVED** to approve minutes, Mary Zdanowicz **SECONDED**.

**ALL IN FAVOR.**

November 25, 2014

Mary Zdanowicz **MOVED** to approve minutes, Michael Harnett **SECONDED**.

**ALL IN FAVOR.**

**Continuation of 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.**

The commission deferred this until April 14, 2015, so the applicant can be present.

Michael Harnett **MOVED** to continue to April 14, 2015, Steven LaBrache **SECONDED**.

**ALL IN FAVOR.**

**8:50PM**

#### **Adjournment**

Steven LaBranche **MOVED** to adjourn, Michael Harnett **SECONDED**.

**ALL IN FAVOR.**

Respectfully Submitted as prepared by,

  
Teena Tilton

  
Stephen Smith, Chairman  
Conservation Commission

4/14/2015