

# 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  
July 14, 2015  
Public Hearing  
MINUTES**

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

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

**Staff Present:** Shana Brogan.

**Also Present:** Theresa Sprague of Blue Flax Design, Tim Brady of East Cape Engineering, Peter Markunas of Markunas Environmental Services, Pat Thomas, Jim Birks, Paul Schmelkf, Tina Lawson, Bill O'Shea, Charles Breuel, Carol and Fred Levison.

6:00 PM

Michael Harnett opened the hearing.

**Reorganization of the Commission**

James Baughman nominates Michael Harnett for Chairman of the Conservation Commission.

James Baughman **MOVED** to nominate Michael Harnett for Chairman, Steven Kleinberg **SECONDED.**

**ALL IN FAVOR.**

**Appointment of liaison to Open Space Committee**

James Baughman **MOVED** to appoint Michael Harnett as liaison to the Open Space Committee, Shelia Filipowski **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 and said she is also representing her sister Judith Spang. Chairman Harnett noted the commission needs more details on how the dock would be installed and spacing. Ms. Thomas said they would not use pressure-treated wood and the work was completed piecemeal over the years. There was a question about the boat they use in the water and where it would go during the work period. Ms. Thomas said they will take it across the street and keep it there. She noted they have had problems with vandalism to the boat. Ms. Thomas said her sister would use a silt curtain.

Steven Kleinberg asked who would do the work and the owner said they were doing the work themselves. Alexander Cestaro clarified no machinery including gas power machinery would be used and all work will all be done by hand. It was noted that the dock would be exact length. Chairman Harnett requested a limit of work on the plan. Ms. Thomas noted it will not be a lot of heavy work, but the work will be done via the existing pathway. The commission requested additional details about the dock and how it would be installed such as a protocol including details about the silt curtain, limit of work, deck spacing and storage.

Steven Kleinberg **MOVED** to continue to July 28, 2015, 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.**

The applicant requests a continuance until July 28, 2015.

Steven Kleinberg **MOVED** to continue to July 28, 2015, James Baughman **SECONDED.**

**ALL IN FAVOR**

**Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes removal of invasive Japanese knotweed and one autumn olive plant located at 631 Dyer Prince Road Map 19, Parcel 120.**

There was discussion about getting rid of the phragmites. Steven LaBranche said he would like the invasives to be removed by hand.

James Baughman **MOVED** to approve a negative determination for reason #3, Steven Kleinberg **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 requests a continuance until August 11, 2015.

Steven LaBranche **MOVED** to continue to August 11, 2015, 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.**

The applicant requests a continuance until July 28, 2015.

Steven Kleinberg **MOVED** to continue to July 28, 2015, James Baughman **SECONDED.**

**ALL IN FAVOR**

**Continuation of Notice of Intent filed by Christina Lawson. Applicant proposes Construction of addition/garage, porch, walkway deck and relocation of driveway, installation of septic tank at property located at 145 Cole Road, Map 13, Parcel 070.**

Tim Brady of East Cape Engineering was present to speak to the project. He noted the driveway now is informal and it would become the main driveway for the house.

Mr. Brady noted there is little flooding on the site. He said it will be possible to keep all dump trucks on the property and they will be removed daily. Mr. Brady noted the only excavation is for the relocation of septic, which is proposed to be moved back ten feet. He noted the driveway is to be pervious with native hardening. Mr. Brady noted there are no performance standards for flood zones and flood waters can go through the garage.

Mr. Brady noted the permit for the garage was approved by the Conservation Commission and they can add more trees now. Shana Brogan said that the commission needs to look at the mitigation. Steven LaBranche asked about the septic system and requested that there be a condition for mulch. Chairman Harnett asked about the proposed split rail fence.

Carol Levison an abutter expressed concern about the increased flooding. Fred Levison noted he was concerned about the drainage issue and that the project is not going to support the herring run. Charles Breuel an abutter noted the zoning regulations were made for a specific reason and thinks the project is overbuilding in a non-conforming lot. He said the site has not recovered from the installation of the septic system and there are box turtles in the area. Mr. Bruell said the flooding is becoming more serious and this project is not appropriate for the area. Mr. Brady noted the road flooding is not from the house, but comes from flooding of the bay. Mr. Brady said the Zoning Board would like the commission to make a decision. James Baughman said if you put a slab in it will impact the ability of the ground to absorb water. Mr. Brady noted the area is sandy so it does absorb flood waters. Mr. Baughman asked about when the lot was created.

There was a question about the 2:1 mitigation. Theresa Sprague of Blue Flax Design said they could add ground cover vegetation and they could add vegetation on the septic system. Mr. Brady does not want to reduce the size of the driveway, but said they can increase plantings. He purposed adding four hundred square feet of grasses and bearberry. Ms. Sprague will revise the planting plan.

James Baughman **MOVED** to approve, Alexander Cestaro **SECONDED.**

**ALL IN FAVOR.**

**Request for Certificate of Compliance filed by Deborah Bright and Linda Dittmar. DEP SE 19-1310 for the addition of a small deck onto an existing cottage located at 3298 State Highway, Map 11, Parcel 049.**

The commission postponed the request until July 28, 2015.

Steven Kleinberg **MOVED** to postpone until July 28, 2015, Steven LaBranche **SECONDED**.  
**ALL IN FAVOR.**

**Request for Certificate of Compliance filed by Craig and Lynne Perry for DEP SE 19-1520. The applicant request for the construction portion of the project located at 15 Sunset, Map 13, Parcel 138.**

Peter Markunas of Markunas Environmental was present to speak to the request. He noted they are only requesting partial Certificate of Compliance. Everything was frozen this year and could not do the planting. Chairman Harnett asked about the concrete spillage and if there is a safe place to put the posts. He also noted every joint on the steps were mortared. Mr. Markunas noted the contractor does not normally use these types of stones. The commission noted there were piles of materials including chip stones. Chairman Harnett said there was some remaining on the beach. Steven Kleinberg said the commission is not in a position to do anything right now. Alexander Cestrao noted there were things seen that weren't compliant and the scope of work was not carried through. Steven Kleinberg **MOVED** to deny the construction portion of the project, Shelia Filipowski **SECONDED**.  
**ALL IN FAVOR.**

**Request for Certificate of Compliance filed by Craig and Lynne Perry for DEP SE 19-1533.** The request is for the construction portion of the project located at 40 Bayshore Lane, Map 13, Parcel 136F.

Steven Kleinberg **MOVED** to deny the construction portion of the project, Shelia Filipowski **SECONDED**.  
**ALL IN FAVOR.**

**Request of Extension of Order of Conditions for sand nourishment for DEP SE 19-1110.** The property is located at 95 Bay View Drive.

Steven Kleinberg **MOVED** to approve the extension, Shelia Filipowski **SECONDED**.  
**ALL IN FAVOR.**

**Request of Extension of Order of Conditions for sand nourishment for DEP SE 19-1105.** The property is located at 85 Bay View Drive.

Steven Kleinberg **MOVED** to approve the extension, Shelia Filipowski **SECONDED**.  
**ALL IN FAVOR.**

### **Other Discussion**

**Violation Update for DE SE 19-1545.** The property is located at 20 Keene Way Map19, Parcel 431.

Jim Birks was present to speak to the commission and noted he planned on removing brush in July. Mr. Birks said he thought he was staying within the limit of work area and did not know he would need a site visit. He said the commission requested confirmation on the site plan about the violation work and said that Natural Heritage Endangered Species Program is ok with the turtle protocol.

Chairman Harnett asked about the building. Mr. Birks noted they want to move towards finalizing the plans and his goal is to start construction on the house in the fall of 2016.

Shana Brogan will issue a letter stating the brush is to be moved by hand and they must call the Conservation office before removing the brush. Ms. Brogan noted that the project should not be done in phases and all of it be done at one time.

#### **Liaison Reports**

##### **1651 Forest Advisory Committee, Open Space Committee and Community Preservation Committee.**

Members reported no new information.

**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.**

The commission deferred this until the next meeting to allow new commissioners time to review the policy before voting on it.

Steven Kleinberg **MOVED** to continue to July 28, 2015, James Baughman **SECONDED**.

**ALL IN FAVOR.**

##### **15 Bayberry Lane – Plant change request**

The applicant proposes to remove non-native plants and plant native plants.

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

**ALL IN FAVOR.**

##### **Depot Pond power lines**

The commission had a discussion about Cedar Pond power lines. There is some concern that cormorants may come to Eastham and roost over Depot Pond. The commissions suggested doing some investigation on the process of having the power lines buried.

#### **Administrative Review**

##### **14 Settler's Trace – Request to upgrade septic system for an existing dwelling located at Map 18, Parcel 300V.**

Steven Kleinberg **MOVED** to approve James Baughman **SECONDED**.

**ALL IN FAVOR.**

##### **300 Samoset Road – Replace waterlogged and deteriorated wood trim on elevated screen porch with PVC located at Map14, Parcel 135.**

James Baughman recused himself. It was noted that the post are deteriorated and they would hire a contractor to cut the PVC off site and install it. The whole frame would be replaced. Steven LaBranche noted concern that they have not let other people use PVC on projects.

Steven Kleinberg **MOVED** to approve, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**Town of Eastham, Herring Brook Road & Bridge Pond Herring Run – Removal of invasive locust tree saplings growing near educational sign at Herring Run.**

Steven Kleinberg **MOVED** to approve the removal of locust tree, Steven LaBranche **SECONDED**.

**ALL IN FAVOR.**

**Minutes**

**September 23, 2014**

Steven LaBranche **MOVED** to approve, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**300 Samoset Road – Removal of phragmites from Depot Pond.**

It was noted that breaking phragmites off a few inches from the ground will cause them to drown. Mr. Baughman said he will take care of the phragmites in front of his house.

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

**ALL IN FAVOR.**

8:45 PM

**Adjournment**

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

**ALL IN FAVOR.**

Respectfully Submitted as prepared by,



Teena Tilton



Michael Harnett, Chairman  
Conservation Commission