

Eastham Conservation Commission

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**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
February 03, 2015
(Meeting postponed from January 27, 2015)
Public Hearing
MINUTES**

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

Commissioners Not Present: All commissioners present.

Staff Present: Shana Brogan.

Also Present: Gary Bluestein, Mark Bluestein, Lindsay Strode of Cape Organics, David Lyttle of Ryder and Wilcox, Charles Wentz of Ponderosa Landscaping, Katherine Ricks of Coastal Engineering, Jason Ellis of Ellis Engineering and Design, and Carl Erickson of Target View Beach Association.

6:00 PM

Chair Smith opened the hearing.

Continuation of Request for Certificate of Compliance filed by Rosamond H. Thomas for DEP SE 19-1403 for erosion control and sand nourishment at property located at 255 Mary Chase Road, Map 18, Parcel 080A.

David Lyttle of Ryder and Wilcox was present to speak to the project. Lindsay Strode of Cape Organics thought that fiber rolls were permitted; so one row was installed on the coastal bank and was working very well. David Lyttle asked that the applicant file an after the fact Notice of Intent. Chairman Smith noted that a stairway was removed as part of the stabilization project and needs to be put back. Chairman Smith also noted boats looked as though they were being launched from the coastal bank and that there should not be any boats launched from the coastal bank and salt marsh. The commission also noted some re-vegetation will need to occur. Michael Harnett **MOVED** to require the applicant to file an after the fact Notice of Intent, for the April 14, 2015 meeting, Mary Zdanowicz **SECONDED**.

ALL IN FAVOR.

Notice of Intent filed by Gary and Marc Bluestein. Applicant proposes repairing and heightening 140 linear feet of rock revetment at property located at 5 and 6 Nan's Way, Map 07, Parcel 517 and 514A.

Gary and Mark Bluestein presented the project. Gary Bluestein proposed to repair and heighten a rock revetment wall and also to address an expired Order of Conditions. Mr. Bluestein noted that the ocean water is coming two to three feet higher up the wall. He also noted that during storms ocean water is eroding and affecting the stability of the rock revetment wall. Mr. Bluestein proposed to take one third of the revetment wall off and add fill and place new rocks and increase the height of the revetment. The Order of Conditions that has expired is for sand nourishment and Mr. Bluestein noted he has always provided sand nourishment even though this Order expired. Mr. Bluestein would like to file for the rock revetment repairs, increased height, sand nourishment and Order of Conditions together.

Chairman Smith noted that the commission needed to stay consistent with all the applicants and that a new engineered plan is required for the project as the plan submitted was from the 1980's and the resource area has changed, and they need to know current conditions. Mr. Bluestein asked to continue until June, giving him time to get a new engineered plan.

Mary Zdanowicz **MOVED** to continue to June 9, 2015, Michael Harnett **SECONDED**.
ALL IN FAVOR.

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 presented the project and noted all work will be done by hand. A Norway maple was proposed to be removed and planting native shrubs. The plan also proposes t two cedar trees are to be removed and four to be limbed. The maple would be cut and the stumped wiped with herbicide. The project includes a silt fence below the planting area. The plan would restore the area and make it more natural. There is also a proposal to control the bittersweet on an annual basis. Numbers of plantings were provided. There would be three hundred and fifty four one-gallon shrubs and some three-gallon shrubs. There would be monitoring reports for invasive removal in the fall.

Chairman Smith noted he was concerned about the open-ended nature of the maintenance plan. Chairman Smith asked for more specific information on the invasive removal process. It was also noted that the yard does not appear to be very steep and that they would use a twelve-month biodegradable straw blanket to keep loose soil from getting into the waterway and marsh.

Mary Zdanowicz **MOVED** to continue to March 10, 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 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

Katherine Ricks of Coastal Engineering was present to speak to the project on behalf of the owners. Ms. Ricks presented a revised plan that included a soft solution of coir envelopes. The soft solution will taper off into the neighbor's property to the north and

extend the full length of the property. It will be 86 feet long with a ten-foot taper and it will include three rows of coir with double envelopes with sand nourishment and vegetation on top. A DEP wetlands appeal was mentioned concerning a revetment and the commission noted that even though in that case it was pre-1978 house the state still denied the appeal. Ms. Brogan instructed the commission to decide if the project meets the qualifications for a rock revetment wall or to decide if there are feasible alternatives for the project. Chairman Smith expressed concern that the homeowner bought this house, demolished it and built a new house with the understanding that no coastal-engineered structures would be allowed. Chairman Smith noted the revetments by the Wetlands Protection Act are to protect the house and not a coastal bank. He also noted the house is far from imminent danger and that there are feasible alternatives that exist to slow erosion.

Ms. Ricks responded and said episodic erosion caused by the blizzard and brought in pictures to show the erosion. Chairman Smith noted that even with the episodic erosion the average erosion would still be the same over twenty to thirty years. Ms. Risks stated that she submitted a revised plan of a soft solution, which includes coir envelopes and wanted to know if the commission considers the soft solution a coastal structure. Chairman Smith stated although he did not speak for the entire commission that he does consider the soft solution a coastal structure.

Mary Zdanowicz asked why the house could not be moved back. Ms. Ricks noted the setbacks are thirty feet from the road. James Baughman asked if there is any definition of a coastal structure. Shana Brogan noted that if coir envelopes are 100% biodegradable it might be considered a soft solution. She noted during a major storm if the bank can still erode it is considered a soft solution. To answer Mr. Baughman's question at this time Department of Environmental Protection does not have a definition of coastal structures. Michael Harnett stated that the distance from the house to the bank precludes any kind of engineered coastal structure. He does not rule out something in the future, but does not see a need for anything at this time.

Shana Brogan asked Ms. Risks for the specification of the modified drift fence in the alternative analysis. Ms. Ricks noted that she did not have the specification, but they wanted to make the drift fence sturdier. She presented pictures of the old drift fence and showed how it was washed away during the last storms. Chairman Smith asked when and how the fence was installed, because there was no way of knowing if it was at the end of its life span or if it was built with galvanized nails.

Steven LaBranche would like more specification on the turf re-enforcement matting used in the modified drift fence. The commission would like to continue and allow Ms. Ricks time to look at the coir envelopes and whether they are a coastal structure and to provide more specification on the modified drift fence and look at alternatives.

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

Katherine Ricks of Coastal Engineering was present to speak to the project on behalf of the owners. Ms. Ricks noted that wave refraction was causing the erosion effect. Chairman Smith questioned whether the house is in imminent danger and whether the revetment wall is necessary. Ms Ricks noted that the property owner added nourishment last year. James Baughman said he does not see a need for a rock revetment at this time due to the amount of erosion, and would like to see a less invasive solution that could prolong the distance and time before the house is in imminent danger. Chairman Smith also noted there are alternatives like a drift fence. Smith noted by building a revetment wall it would prevent the coastal bank from doing what it is meant to do with normal erosion. Smith noted the bank serves as a sediment source. The commission asked the applicant to look at alternatives to the project.

James Baughman **MOVED** to continue to February 24, 2015 Michael Harnett **SECONDED.**

ALL IN FAVOR.

Continuation of Notice of Intent filed by Michael Rivers and Sarah Stair. Applicant proposes construction of a garage, removal and upgrade of a septic system, removal of four trees at property located at 40 Teal Way, Map 17, Parcel 507.

Applicant requested a continuance to February 10, 2015.

Mary Zdanowicz **MOVED** to continue to February 10, 2015, James Baughman **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 JC Ellis Design presented the project. Mr. Ellis explained the project and said that there would be a constructed addition, a deck and a walkway. The new owners plan to remodel the outside of the house and the garage. It will include a new roof and re-shingling the side of the house and the garage. It is also proposed for an addition on the southwest side of the house that will measure twenty feet by fifteen feet. The applicant also proposed a deck extension on the northeast side of the house next to the pond and a walk way on the west side of the house. The walkway would be constructed with non-pressure treated wood with mulch between the timbers. Mr. Ellis noted that the homeowners have cut down some pine trees that have died and the plans includes cutting down more pine trees. He also said there is a cedar tree that is close to the pond that hardly has any needles that they want to remove as well. Mr. Ellis noted there is a tupelo tree that needs to be limbed and that all the autumn olive trees need to be completely removed. He proposed to cover the dirt driveway with shells and to replace the brick walkway with pavers. The plan also includes installing a gas and electric line from the house to the garage.

James Baughman questioned if the deck and walkway are extended further into the wetlands and noted they would need to visit the site. Mr. Ellis noted that the deck and walkway would serve as an emergency access for the homeowners.

Chairman Smith noted there was no work protocol and one must be included. Mr. Ellis noted the removal of invasive vegetation and trees would not leave the area void of vegetation, because there is plenty of vegetation under the trees. Chairman Smith noted there was no information on how the invasive would be removed or how the invasive would be replaced. Steven LaBranche noted that the commission would need a list of the types of pine trees, and invasive plants to be removed. He also noted that Mr. Ellis's plan did not offer a very extensive list of replanting and that more than blue berry bushes will need to be used. Chairman Smith said that by removing all the trees it would change the habitat. According to Chairman Smith birds of prey that would perch in the trees cannot perch on the blue berry bushes. Chairman Smith noted that by removing all the trees you are not providing equal biomass. The commission asked Mr. Ellis to further define what types of pines and invasive vegetation he wanted to remove and to provide an extensive list of vegetation. The commission would also need to visit the site before they could make a decision.

Michael Harnett **MOVED** to continue to February 24, 2015, Mary Zdanowicz **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 JC Ellis Design presented the project Mr. Ellis noted that the homeowner wanted the stairway moved closer to the top of the bank and to add a new zig-zag sand drift fence at a higher elevation. Mr. Ellis contacted Jim O'Connell a coastal geologist who reviewed the project and stated the need for an eighteen-inch height for the elevated walkway. Michael Harnett asked for the Frost Decision. Mary Zdanowicz asked for Jim O'Connell's qualifications. Shana Brogan noted the commission has access to Greg Berman, a coastal geologist at Woods Hole Sea Grant program. The commission decided they would like Greg Berman to look at the property and requested specifications on the elevated walkway. It was noted that Mr. Berman may not have a great impact on this project, but it would not hurt to ask him.

The commission also noted the pathway should be planted with bearberry and that runoff was ok as long as it does not funnel erosion towards the bank.

Carl Erickson of the Target View Beach Association was also present to express his concerns for the project. There was a question about the property ownership and whether the owner signed the Notice of Intent. Mr. Erickson wanted to make sure no debris is left behind. Mr. Ellis will check with the contractor to see about the piling and the specifics on the bolts being used.

Michael Harnett **MOVED** to continue to February 24, 2015, Steven Kleinberg **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 JC Ellis Design presented the project. He explained the applicant wants to add a screened in porch over an existing deck. Mr. Ellis noted that Jim O'Connell a coastal geologist determined the area was a coastal bank. The commission asked that

Greg Berman, a coastal geologist at Woods Hole Sea Grant program also take a look at the area in question.

Steven LaBranche **MOVED** to continue to February 24, 2015, Steven Kleinberg **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 JC Ellis Design presented the project. The project includes a septic upgrade and installation of a new well. The septic upgrade includes using an existing septic tank and leach field. The well will be relocated on the waterside of the house. There will be a pump chamber added right after the septic tank. Mr. Ellis also noted that the plan shows the only place for the leach field and that a conservation seed mix will be used over it. There is one four foot spruce tree located on the leach field and it will be re-located to the side of the leach field. Mr. Ellis noted that an oak tree by the driveway would have a well around it so that it does not come down as a result of the project. The commission noted there was no information on the timber retaining wall. The commission requested that the specification of the timber-retaining wall be included on the plan.

Mary Zdanowicz **MOVED** to continue to February 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.

Applicant requested a continuance to February 10, 2015.

Michael Harnett **MOVED** to continue to February 10, 2015, Steven Kleinberg **SECONDED**.

ALL IN FAVOR.

Other Discussion

20 Keene Way - Violation of Order of Conditions for Notice of Intent filed by James and Becky Birks. Applicant proposes construction of a dwelling, driveway, septic system, well, grading and landscaping at property located at 20 Keene Way, Map 19, Parcel 043-I.

Steven LaBranche recused himself. Shana Brogan submitted a letter from David Lyttle of Ryder and Wilcox with a plan to address the problems. David Lyttle said he would re-stake the project and limit of work. Mr. Lyttle will meet on-site with Wilkinson Ecological Design and Shana Brogan to document where the cutting occurred. Mr. Lyttle will then add it to the site plan for review by the commission. The commission accepted the letter and discussed corrective actions. The commission does not want any piles outside the limit of work and wants them shown on the plan. They also want the debris removed immediately upon the snow melting. The commission requires there be some consultation and would like the incident reported to Natural Heritage for input on the Turtle Protection.

Community Preservation Committee

The commission discussed nomination of Conservation Commission representative for the Community Preservation Committee. The possibility of sending alternating members to meetings was discussed, but no decision was made concerning the nomination.

The commission decided to discuss again at the next meeting.

John Sherff – 15 Blue Bill Lane – vista pruning site visit

The commission was not able to visit the site due to the blizzard, so it was not discussed.

Administrative Reviews

20 Elizabeth Drive

The applicant has withdrawn the administrative review and the commission accepted the withdrawal.

Herring Pond town beach – memorial bench

The bench will have no impact to emergency access to the pond. It was also noted no more benches are proposed.

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

One opposed – James Baughman

MOTION CARRIED.

1 Nycoma Way

Chairman Smith noted that vertical posts for the fence is pressure treated wood and the owner needs to change the post. The commission held off voting on the fence to review previous tapes. The owner emailed 2 Nycoma saying the fence was impacting rental income.

431 Dyer Prince Road - Remove 1 dying tree

The commission did not discuss the removal of the tree, because the applicant was not able to have the tree marked due to the weather.

92 Old State Highway - update

The commission questioned how vertical the gabion baskets are positioned. They also asked when plantings would be installed.

Approval of Minutes

January 13, 2015 - on-site meeting

Steven LaBranche **MOVED** to approve, James Baughman **SECONDED**.

ALL IN FAVOR.

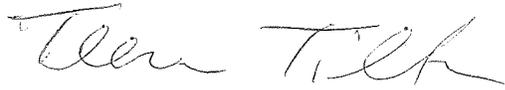
9:09PM

Adjournment

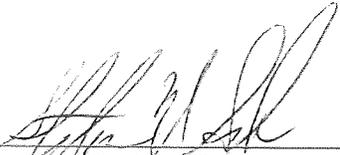
Steven LaBranche **MOVED** to adjourn, Mary Zdanowicz **SECONDED**.

ALL IN FAVOR.

Respectfully Submitted as prepared by,



Teena Tilton



3/10/2015

Stephen Smith, Chairman
Conservation Commission