

# Eastham Conservation Commission

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**Eastham Conservation Commission  
2500 State Highway  
Earle Mountain Room  
January 12, 2016  
Public Hearing  
MINUTES**

**Commissioners Present:** Steven LaBranche, James Baughman, Thomas Durkin, Alexander Cestaro and Shelia Filipowski.

**Commissioners Not Present:** Chair Michael Harnett.

**Staff Present:** Shana Brogan.

**Also Present:** Tim Brady of East Cape Engineering, Mark Burgess of Shorefront Consulting Thomas Collins, Christine Hughes-Prince, Principal William Crosby of Eastham Elementary School, David Hawk of Hawk Design, and Charles Wentz of Ponderosa Landscaping, Jason Ellis of J. C. Ellis Design, Henry Lind & Joanna Buffington of the Eastham Conservation Foundation.

6:00 PM

James Baughman announced the opening of the meeting.

Steven LaBranche **MOVED** to nominate James Baughman to Chair the meeting in the absence of Michael Harnett, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

6:04 PM

James Baughman opened the hearing

**Continuation of Notice of Intent filed by Patricia Voke. Applicant proposes installation of a 112 linear feet of rock revetment to protect a post-1978 building and reconstruction of a stairway section at property located at 235 Shurtleff Road, Map 07, Parcel 093.**

The applicant requested a continuance to March 8, 2016.

Shelia Filipowski **MOVED** to continue to March 8, 2016, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Continuation of Notice of Intent filed by Paulo and Ellen Baltazar. Applicant proposes removal and installation of a boat launching ramp in a salt marsh, construction of a**

**retaining wall and sitting wall, stone steps, fire pit, bluestone patio walkways and landings and planting native plants at property located at 285 Corliss Way, Map 21, Parcel 042.**

Mark Burgess, Lindsay Strode and Charles Wentz were present to speak to the project. Mr. Burgess submitted pictures of past projects that involve work within a marsh. Shana Brogan announced the voting members of this hearing would include James Baughman, Shelia Filipowski, Alexander Cestaro and Thomas Durkin. She noted Steven LaBranche would not be eligible to vote, but could take part in the questions and comments part of this hearing. James Baughman asked if the survival of the marsh was increased by only moving it twenty feet way and keeping it in a similar environment. Mr. Strode noted that new growth actually does better in a project like this, but they wanted to restore and keep the marsh that has grown there for years. Mr. Burgess noted they wanted to use what was already available and there was no need to throw away healthy plant life.

Steven LaBranche asked if the boat ramp was useable and expressed concern about disturbing the marsh to build a new ramp that would only be used twice a year. Mr. Burgess noted that the house came with a permitted dock and boat ramp and the owners wanted to replace it in-kind and improve the natural resources around it. Shana Brogan asked what kind of grading would need to happen when installing the ramp. Mr. Burgess noted that he was unsure what would be under the concrete when it was removed, but they had a plan in place to grade and add stone before placing the new ramp in the marsh. Shana Brogan asked how they would keep the stone from moving around in the water and how would the slit be contained. Mr. Burgess noted they could use a cofferdam to contain both. He noted all the work would be done with the machine staying on either the existing ramp or the new ramp. Mr. Burgess noted they could use a cofferdam to contain both and then remove it once everything settled back into place. Shana Brogan asked what he planned to do with all the material he removed from the old ramp. Mr. Burgess said all concrete and debris would be disposed of at the landfill. Shelia Filipowski noted she would like the project monitored more than once a year.

Charles Wentz noted he submitted a protocol for emptying and filling the hot-tub. Mr. Baughman expressed concern about the retaining wall and the terracing of it in the yard since there were no steep slopes. Mr. Wentz noted it was mostly for aesthetics, but it did have drainage pipes behind it and it was level so there would be no run-off cause by it. Shana Brogan noted the spacing of the stones in the patio was only three-eighths of an inch wide and the commission often requires one to two inches for better drainage. The commission requested the applicant to use a one inch spacing between the patio stones. Shana Brogan noted the space of the deck and patio and suggested more woody vegetation for habitat to thrive in. She asked what would be planted in the beds around the patio. Mr. Wentz noted the beds would be mulched at first and then allowed to be natural. Mr. Wentz noted they could add cedar trees on the south side and a tupelo tree behind the retaining wall. The commission requested the applicant also plant two cedars on the western side of the property and four cedar tree seven to eight feet tall on the east side of the property. He would also plant a indigenous tree behind the retaining wall.

Alexander Cestaro **MOVED** to approve the removal and installation of boat ramp, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

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

The applicant requested a continuance to February 9, 2016.

Shelia Filipowski **MOVED** to continue to February 9, 2016, 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.**

The applicant requested a continuance to February 9, 2016.

Shelia Filipowski **MOVED** to continue to February 9, 2016, Alexander Cestaro **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 liner feet of trails at property located at 200 School House Road Map, 12, Parcel 070.**

Shana Brogan noted the commissioners visited the site. Christine Hughes-Prince and Principal William Crosby were present to speak to the project. They noted they would use AmeriCorps to perform the work. Steven LaBranche noted poison ivy and cat brier are native plants, but they are aggressive. James Baughman noted the project was not clear and wanted to ensure they would not be adding mulch and that the ground cover would remain natural. Shana Brogan noted this is maintenance to an already existing area.

Shelia Filipowski **MOVED** to approve the removal of invasive plants, Alexander Cestaro **SECONDED**.

**ALL IN FAVOR.**

**Request for Amended Order of Conditions filed by The James Emerson Davis Family Trust. Applicant proposes the removal of existing invasive, overgrown and damaged plants and more appropriate vegetation is proposed to be provided located at 25 Bayberry Lane, Map13, Parcel 154.**

Tim Brady and Phil Cheney represented the project. Mr. Brady noted in 2014 there was an approved Orders of Condition for a dormer and septic. He noted the proposed project would be an improvement to the landscaping and reviewed the plantings. Steven LaBranche noted neighbors were required to have their apron set in sand. Mr. LaBranche noted the commission wanted to be consistent with all applicants as this application proposed an apron set in concrete. James Baughman clarified that they were proposing a twenty four inch retaining wall for parking. Shana Brogan said that there were applicants in the audience that had to take out hardening and mortar in the past. Mr. Baughman noted there was a fair amount of surface. Mr. Brady said they could go with no cement. The use of no concrete was agreed to by applicant and commission. Mr. Brady said there is no adverse impacts and requested a three year order for vista pruning. Sheila Filipowski noted concerns about the amount of non-native plants. Phil Cheney noted there are non-natives in the yard now. It was noted there would be a one-time mulching, but no fertilizer can be used.

Alexander Cestaro **MOVED** to approve the removal of existing invasives and new plantings, Sheila Filipowski **SECONDED**.

**ALL IN FAVOR.**

**Request for Amended Order of Conditions filed by Carol Downes. Applicant purposes to install a bluestone patio on a bed of sand in the area under the deck and alongside it located at 245 Mill Street Map 15, Parcel 24.**

Al Sorbello was present to speak to the project and noted the patio would be installed in loose gravel and loose sand. The commission noted concern about the spacing for the sand and request three- eighths of an inch depth so it does not wash out. Mr. Sorbello noted the Belgian block edging would be set in sand as well. James Baughman said that mitigation is warranted. Mr. Sorbello noted they would add plantings from the approved plantings list. The planting area would include one-hundred square feet of mitigation with a mixture of arrowwood, bayberry and red cedar. Steve LaBranche expressed concern about flooding and is plant would survive. Mr. Sorbello to check plantings and submit a new planting plan.

Sheila Filipowski **MOVED** to continue to January 26, 2016, Alexander Cestaro **SECONDED.**

**ALL IN FAVOR.**

**Request for Amended Order of Conditions filed by John C. Bumby. Applicant proposes renovations to garage and to revise the approved landscaping plan located at 630 Samoset Road, Map 14, Parcel 87.**

Tim Brady represented the project. He noted the applicants would like to keep garage as is and want to expand the approved landscaping plan. James Baughman asked how the invasives would be removed. Mr. Brady noted they would remove some invasives by cutting them with a machine, but most of the work would be done by hand. He noted the concrete wall would be covered by loam. The commission requested more information on the invasives removal. Mr. Brady requested permission to use temporary irrigation. Steven LaBranche noted mowing should only occur twice a year. The mowing should be in early spring and late fall. Mr. Brady noted the patio on the house is no longer proposed and the area on the planting plan by deck to become a Cape Cod lawn.

Alexander Cestaro **MOVED** to continue to January 26, 2016, Thomas Durkin **SECONDED.**

**ALL IN FAVOR.**

**Violation – 27 Longstreet Lane. Construction of retaining walls and a stairway and addition of hardening, steps, to an existing patio in a coastal dune.**

Tim Brady represented the homeowners. Shana Brogan noted stairs, retaining walls, hardening and a patio were installed without a permit. She noted the homeowners used pressure treated wood. Mr. Brady noted the new homeowners were unaware they needed permits or permission to do any of the work. He would be willing to file a Notice of Intent and the homeowners are willing to remove the pressure treated wood. The commission requested the applicant to file a Notice of Intent.

Alexander Cestaro **MOVED** to issue an Enforcement Order, Steven LaBranche **SECONDED.**

**ALL IN FAVOR.**

**Request for Amended Order of Conditions filed by Douglas Wood. The applicant purposes a retaining wall on one side of the existing leaching area, and planting native shrubs located at 400 Crosby Village Road Map 14, Parcel 196.**

Charles Wentz was present to speak to the project. The commissioners were concerned about all the sand in the back of the house and asked for clarification regarding the buffer zone. It

was noted that the three to four foot wall would be made out of boulders. The commission noted there is no definition to play areas. Areas are to stay as is with no grading or concrete to keep it natural. The area in front of the house to be a naturalized area when work is completed. The commission would like to see the area by the pond vegetated. The addition of sand to the beach area will be on a future agenda.

Sheila Filipowski **MOVED** to approve the retaining wall and plantings, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by Vito & Helga Frazette for a septic upgrade located at 55 Country Lane Map 18, Parcel 247.**

Jason Ellis represented the project. Shana Brogan commented that they can add certain conditions to the permit such as 24 hour notice, containing debris, revegetation, and limit of work.

Alexander Cestaro **MOVED** to approve the septic upgrade, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by Sarah Clark. Applicant proposes an after the fact filing for a shed built within the 100 foot buffer zone located at 60 Molls Pond Road, Map 12, Parcel 289.**

Sarah Clark was present to speak to the request and noted she was not aware that they needed a permit from the Conservation Commission. Alexander Cestaro noted he did not think the property was near a wetland. James Baughman explained the resource areas and buffer zones that are regulated by the commission and noted they need to know exactly where the resources are located. Mr. Baughman noted vegetated wetlands are to be protected within the one-hundred feet buffer zone. Ms. Clark had a site sketch plan which included a proposed gutter installation with a rain barrel. She also noted the area use to be a marshy wetland area. Shelia Filipowski expressed concern about the use of pressure treated wood. The commission asked the owner to look into a site plan.

Shelia Filipowski **MOVED** to continue to January 26, 2016, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by Evelyn Kaupp. Applicant proposes root pruning one poplar tree, removal of two locust trees and one pitch pine tree, and pruning dead limbs at property located at 220 Crosby Village Road, Map 14, Parcel 208.**

The applicant requested a continuance to January 26, 2016.

Shelia Filipowski **MOVED** to continue to January 26, 2016, Steven LaBranche **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by Dean & Natasha Frodel. Applicant proposes foundation repair at property located at 1800 State Highway, Map 18, Parcel 108.**

Brad Malo a representative of Coastal Engineering was present to answer any questions. Shana Brogan had no comments.

Thomas Durkin **MOVED** to approve the foundation repairs, Shelia Filipowski **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes to repair two floats and ten boards for Rock Harbor, Dyer Prince Road.**

The commission mentioned revisiting the pressure treated wood policy.

Shelia Filipowski **MOVED** to approve the repair of two floats and ten boards at Rock Harbor, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes in-kind replacement to aquaculture building stairway at property located at Salt Pond.**

Shelia Filipowski **MOVED** to approve the replacement of stairway at Salt Pond, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Certificate of Compliance filed by Margaret Maier. Applicant submitted a request for DEP Se 19-1407 for property located at 3 West Shore Drive, Map 7A, Parcel 003.**

James Baughman noted the engineer would need to submit a letter stating the project is in compliance.

Alexander Cestaro **MOVED** to continue to February 9, 2016, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Change of Plan filed by Edward T. Holleran located at 210 Sunset Ave, Map 019, Parcel 41.**

David Hawk was present to speak to the commission. The applicant request a material change to use Irish limestone which would be dry set. They also requested to add an eight inch wide brick border around the patio.

Alexander Cestaro **MOVED** to approve the change in plan, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Change of Plan filed by Jay Kenny & Rosaleen Doherty located at 50 Ellis Road Map 22, Parcel 016.**

Steven LaBranche **MOVED** to approve the change in plan, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Request for Extension filed by Warren Thaler located at 35 West Road Map 04, Parcel 533.**

Shana Brogan noted the correct address is 45 West Road not 35 West Road. The commission agreed to the extension permit.

Shelia Filipowski **MOVED** to approve the extension permit, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

### **Administrative Reviews**

**780 Bridge Road - After the Fact Administrative Review filing for placement of hardening and gravel on existing driveway at edge of salt marsh, Map 20, Parcel 093.**

Thomas Collins represented the request and noted the area is about four hundred square feet.

Steven LaBranche noted he would rather the town be in front of the commission as they have created the problem. The commission ask Mr. Collins to submit a more detail plan for the

placement of the stone. The plan should include a sketch of the site including the limit of work and materials used.

Shelia Filipowski **MOVED** to continue to March 8, 2016, Thomas Durkin **SECONDED**.  
**ALL IN FAVOR.**

**19 Marion's Way - Replace pressure treated wood used on deck in front of house with ipe located at Map 7, Parcel 558.**

This was deferred to the next meeting.

**150 Crosby Village - Complete removal of nine trees due within the 100 foot buffer zone of a pond located at Map 14, Parcel 213.**

Shelia Filipowski **MOVED** to deny the cutting of the nine trees, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**180 Meeting House Road – Pruning of several dead limbs around house and complete removal of two oak trees located at Map 09, Parcel 148.**

This was deferred to the next meeting.

**20 Dirk's Drive – Remove three dead pine trees, Map 13, Parcel 107.**

This was deferred to the next meeting.

**75 Bay View Drive – Remove lower section of stairs using a 4 x 4 pickup truck on the beach**

**for transporting the stairs off the beach, Map 13, Parcel 013.**

This was deferred to the next meeting.

### **Other Discussion**

**Review and signing of Conservation Restriction for property at Blue Bill and Widgeon Lane, "Terrapin Cove".**

Henry Lind and Joanna Buffington of the Eastham Conservation Foundation were present to speak to the conservation restriction. Mr. Lind noted Mass Audubon did considerable fund raising He noted the property is required to have a conservation restriction and there would be potential filings for vegetation management, but the vegetation will remain just as it is today. Mr. Lind noted the restriction to exclude any other use of the property by the town. Mr. Lind noted Mass Audubon would do the work to maintain the property as a diamond back nesting ground. The restriction also states Mass Audubon would not charge the town for maintaining the property. The Eastham Commissioners were supportive of the document and agreed to the changes submitted by Mr. Lind.

Steven LaBranche asked about chemical herbicide and mechanical removal of invasives being prohibited on page four. He noted concerns about not being able to stop invasives that could harm the turtles or block them from making it to shore. Mr. Lind noted the "except as permitted by section C7" would allow the caretakers to address removal of invasive plants.

Alexander Cestaro **MOVED** to continue to January 26, 2016, Thomas Durkin **SECONDED**.  
**ALL IN FAVOR.**

**Review and discussion of potential individual water service connections wetlands permit policy.**

This was deferred to the next meeting.

**Violation – 100 Lawton Road, Map 14, Parcel 046. Installation of storage shed and removal of vegetation within 100’ of Herring Pond and bordering vegetated wetland without a permit.**

Shana Brogan updated the commission on the progress of contacting the property owners, and said she is working to contact them.

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

This was deferred to the next meeting.

**Cormorants and Eastham Ponds Letter Update**

This was deferred to the next meeting.

**Liaison Reports (1651 Forest Advisory Committee, Community Preservation Committee, Open Space Committee)**

This was deferred to the next meeting.

**Harvesting salt hay**

This was deferred to the next meeting.

**385 Shurtleff Road Stairway and pilings**

This was deferred to the next meeting.

**Approval of Minutes**

November 10, 2015

November 24, 2015

November 24, 2015 – On-Site Meeting

December 1, 2015 – Work Session

December 08, 2015 – On-Site Meeting

December 15, 2015 – Work Session

Alexander Cestaro **MOVED** to approve the minutes, Thomas Durkin **SECONDED**.

**ALL IN FAVOR.**

**Adjournment 10:16PM**

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

**ALL IN FAVOR.**

Respectfully Submitted as prepared by,

  
Teena Tilton

  
Michael Harnett, Chairman, *pro tem*  
Conservation Commission