

Eastham Conservation Commission

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**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
October 14, 2014
Public Hearing
MINUTES**

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

Commissioners Not Present: Linda Haspel.

Staff Present: Shana Brogan.

Also Present: Neil Andres of Eastham Department of Public Works, Shawn Shea of Misty Hill Landscaping & Design, Tim Brady of East Cape Engineering, Attorney Jamie Viera, Adrian Punch of Harrow & Seed, Jason Ellis of Ellis Design, Peter Markunas of Markunas Environmental Services, Larry Jasper, Mark Haley, David Hakula and Loretta Nielsen.

6:00 PM

Chair Smith opened the hearing and asked if anyone objected to allowing the Friends of 1651 to move to the beginning of the meeting. No one objected.

1651 Arboretum, Wiley Park – planting memorial dogwood tree

Loretta Nielsen requested permission to plant a dogwood in memory of Rex Peterson in Wiley Park. She noted it would be six to seven feet tall and would be planted on October 25, 2015.

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

ALL IN FAVOR.

Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes repairing a parking area with asphalt and hand removal of broken asphalt at property located at Collin's Landing, Map 20, Parcel 116.

Neil Andres of Eastham Department of Public Works was present to speak to the project. He noted the pavement was full of potholes and has become dangerous. Shana Brogan said the work was completed today, because cars were getting stuck and it was dangerous. Chairman Smith noted that this just did not happen overnight and the pot holes happen every year. He feels a better plan should be put into place so the

commission does not have to approve emergency orders. Chairman Smith noted he does not want to give the appearance that the town does not have to go through the same process as any other applicant. Michael Harnett agreed that this should not be an emergency order. He would like Mr. Andres to plan ahead for these types of problems and go through the proper application process.

James Baughman **MOVED** to approve for a negative determination for reason # 3, Steven Kleinberg **SECONDED**.

ALL IN FAVOR.

Request for Determination of Applicability filed by John F. and Jane Malloy for proposed addition and landscape improvements at property located at 25 Bay View Drive, Map 13, Parcel 049.

The applicant requested to withdraw their request.

James Baughman **MOVED** to accept the withdrawal, Steven Kleinberg **SECONDED**.

ALL IN FAVOR.

Notice of Intent filed by Larry R. and Jo Ann Jasper. Applicant proposes installing a paved driveway using porous asphalt and planting native and non-native plants at property located at 10 Ben's Way, Map 01, Parcel 074.

Shawn Shea of Misty Hill Landscape Designs and Larry Jasper presented the project. Mr. Shea noted they propose to replace the stone driveway that is in disrepair with a porous asphalt driveway that would absorb rainfall and limit erosion. Mr. Shea noted they would use the same contracting fashion that was used to install the porous asphalt parking lot behind the Dairy Queen. Shana Brogan noted concern about paving so close to the coastal bank and pointed out a small portion of the work would be in the Area of Critical Concern. She noted there are some proposed plants that are considered invasives. James Baughman asked how the porous asphalt driveway would be maintained over time and if there are any alternatives. Mr. Shea noted the maintenance would be to vacuum the pavement and is unsure how often that would need to take place. He said that the wildflowers and grasses planted along the driveway will help keep the sand and slit out of the driveway.

Michael Harnett asked about the degree of the slope and noted he read that the porous asphalt is not recommended for slopes over five percent. Chairman Smith noted that most of the research and studies on porous asphalt are on level parking lots and is not sure it applies to the slope of the driveway. He noted today at a site visit he had no problem getting up the driveway and did not see any major erosion even with it raining for the past two weeks. Chairman Smith noted another concern was the project would require excavating fourteen inches to get the proper layers of materials installed. He pointed out that even with porous materials you still need to install perforated pipes and catch basins and that they would need a large catch basin to catch flow sheets at the bottom of the driveway. Mr. Shea said the edge of the driveway would be loamed and hydro seeded to catch the overflow from the driveway. He also noted that the contractor that looked at the job did not mention the need for any catch basins and made it seem like there would be no problem with the slope. Michael Harnett suggested Mr. Shea look at the papers written by the University of New Hampshire on *Installations and Slopes of Porous Asphalt*, because it deals with slopes.

Steven LaBranche noted they need to know the details of the wildflower mix and said no irrigation is allowed. Chairman Smith asked for more information on catch basins and wildflower mix. Steven Kleinberg noted they are still waiting to hear from Natural Heritage Endangered Species Program. James Baughman asked for a protocol to ensure that long term maintenance be continued on the porous asphalt driveway.

Mary Zdanowicz **MOVED** to continue to October 28, 2014, Michael Harnett **SECONDED**.

ALL IN FAVOR.

Notice of Intent filed by Drolsbaugh Nominee Trust. Applicant proposes increasing the height of an existing rock revetment from elevation 14' to elevation 18' at property located at 21 Gail's Way, Map 07, Parcel 572.

Tim Brady of East Cape Engineering represented the project. He noted the stone revetment wall was no longer tall enough and proposes to increase the height. Shana Brogan noted that she does not recommend the use of chink stone, because it ends up in the water. Mr. Brady said he only plans to use the chink stone as bedding for the larger stones and agrees the small stones can get into the water. He said he would be fine with an order that states no loose chink stone when the project is complete. Chairman Smith noted that the proposed plan would add more stability to the area and in turn would keep machines off the beach.

Michael Harnett **MOVED** to approve the proposed height increase of the revetment, James Baughman **SECONDED**.

ALL IN FAVOR.

Request for Amended Order of Conditions filed by Edward Molyneaux for DEP SE 19-1437 for proposed vista pruning maintenance at property located at 10 Drake Circle, Map, 17, Parcel 538.

Edward Molyneaux was present to speak the project. He noted he would like to add a maintenance clause to maintain the foliage work he completed last year. He is asking for permission to prune annual to keep the trees at the height of nine and half feet. Chairman Smith noted this order would give maintenance privilege that would need to be connected to the health and survival rate of the vegetation. Chairman Smith would like an inventory with location taken of the plants so the commission can see what has survived and if something does not survive they will be able to see what needs to be replanted.

Steven Kleinberg **MOVED** to approve the pruning maintenance, Steven LaBranche **SECONDED**.

ALL IN FAVOR.

Request for Amended Order of Conditions filed by Mark Haley. Applicant proposes changes to approved dwelling footprint plans and modifications to limit of work area at property located at 5 West Shore Drive, Map 7A, Parcel 003.

David Lyttle of Coastal Engineering and Mark Haley were present to speak to the project. Mr. Haley noted they propose to change the structure to not have a second floor so it will not block the neighbors view. The house will take up more lot space and this will increase the limit of work. Chairman Smith noted that the approved planting plan needs to be expanded to cover the whole lot, because the yard will be destroyed. Mr. Lyttle noted they fully intend to restore the lot after construction is finished. Chairman Smith asked since most of the plants are grasses should the numbers be increased. The commission asked for an updated planning plan.

Attorney Jamie Viera was present to represent the owner of 7 West Shore Drive. He noted the scope of the change should be filed as a Notice of Intent not as an Amended Order of Conditions. He noted concern about the flood zones and zoning set back for the septic that should be looked at through a Notice of Intent. Attorney Viera would like the structure to be moved completely out of the flood zone. Mary Zdanowicz noted she does not see the amendment as a large change to the approved plans. James Baughman noted that after the site visit he does not believe it is out side the scope of an Amended Order of Conditions and believes the commission could approve it. Chairman Smith noted they have approved a similar structure before and this change only increases the size by one hundred and forty eight square feet.

Mary Zdanowicz **MOVED** to approve the Amended Order of Conditions, James Baughman **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Reed A. Richard and Annette M. Richard. Applicant proposes after the fact construction of a permanent dock and dug-in stairway, removal of trees and vegetation and stabilization of an inland slope and a stabilization and restoration plan at property located at 35 Duck Marsh Lane, Map 12, Parcel 214.

Reed Richard and Adrian Punch of Harrow & Seed were present to speak to the project. Shana Brogan noted the plan includes removing both docks and the stairway. She noted the area would be stabilized and the fill removed. Shana Brogan said she did receive a revised work protocol and planting plan prior to the meeting. Chairman Smith noted all work will be done by hand and asked if there was a provision in place to replace any trees that may die from root cuttings. Adrian Punch said there was not a provision in this plan, but did note that most of the oaks were dying due to the gull wasp. Mr. Punch noted they are planting a health number of plants. Mr. Reed said not much if any vegetation was disturbed so the additional plants only add to the resource area. Shana Brogan asked what kind time frame they are looking at for a completed and established plan. Both Mr. Punch and Mr. Richard noted they would like to start the project right away to take advantage of the planting season.

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

ALL IN FAVOR.

Continuation of Notice of Intent filed by David Hakula. Applicant proposes after the fact construction of two wooden boardwalks and two platforms at property located at 285 Turnip Road, Map 07, Parcel 513.

David Hakula was present to speak to the project and noted the wood he used is an eco-friendly green certified product. Chairman Smith noted Eastham Conservation has a non-pressure treated wood policy and the pressure-treated wood he used has to come out and be replaced. Mr. Hakula said that only one third of the wood used is pressure treated and that it was a small percentage of the total area. Chairman Smith noted on the site visit it appeared that all the wood used is pressure-treated. Mary Zdanowicz noted the wood has an Environmental Protection Agency approval and is certified eco friendly, however that only means it is a better choice than others and does not mean it is environmentally safe. Steven Kleinberg noted the policy does not allow for a percentage of a project to use pressure-treated and the pressure-treated wood must be removed and replaced.

Mary Zdanowicz asked if the walkway should even be allowed at all. Chairman Smith noted that was a good question considering the process of installing the walkways. Shana Brogan noted the commission could add a condition that requires the walkways to be removed and taken out of the buffer zone and a new walkway built without pressure-treated wood. The commission asked what kind of time frame Mr. Hakula would need to remove the walkway and replace it. Mr. Hakula noted he would be doing the work himself and lives in New Jersey so it would take three to six months for him to complete. Mary Zdanowicz **MOVED** to approve the after the fact finding if the pressure treated walkway is taken out and replaced with non-pressure-treated wood, Michael Harnett **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Robert and Mary Anne Heino. Applicant proposes removal of twenty trees, removal of invasive vegetation, restoration trees and shrub plantings, ornamental foundation plantings, driveway expansion, walkways, and a new lawn at property located at 470 Herring Brook Road, Map 14, Parcel 007.

The applicant requested a continuance until November 10, 2014.

Mary Zdanowicz **MOVED** to continue until November 10, 2014, James Baughman **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Carolynn Branthoover. Applicant proposes construction of a permeable paver pool deck and walkway, installation of a bocce court and vista pruning at property located at 140 Eider Lane, Map 16, Parcel 018.

The applicant requested a continuance until November 10, 2014.

Steven Kleinberg **MOVE** to continue until November 10, 2014, Michael Harnett **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by Patricia Peters. Applicant proposes a septic system upgrade and installation of a new well at property located at 190 Eldredge Drive, Map 01, Parcel 066.

Jason Ellis of Ellis Design was present to speak to the project. Shana Brogan noted that there was some dumping of brush at the property. Mr. Ellis said he believes the brush is not on his client's property, but on the Audubon property. He thinks people are using the property as a dumping site for yard clippings. Chairman Smith noted pruning of cedars and pines did happen near the deck and feels some of the brush could have come from that pruning. He would like a no pruning condition added to the Order of Conditions. Michael Harnett noted if there are piles of brush on the property it must be cleaned up.

Michael Harnett **MOVED** to approve the septic system upgrade and new well, James Baughman, **SECONDED**.

ALL IN FAVOR.

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.

Shana Brogan noted there was no mention of the coir rolls and mentioned there maybe another filing for just them. Chairman Smith noted there are coir rolls sewn together end

to end with stainless cables. Michael Harnett noted the plan in front of him shows wooden steps and at the site visit there were no wooden steps. He noted there was what looked like a boat ramp. The commission said they would like to continue until the applicant can provide more information on the project. Chairman Smith noted the project should be completed to include the wooden steps or the plan should be modified to what is presently at the site. Chairman Smith noted that nothing larger than a kayak should be launched from the boat ramp.

Mary Zdanowicz **MOVED** to continue until October 28, 2014, Steven LaBranche **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by Barbara Carlson for DEP SE 19-1347 for septic system repairs and after the fact filing for paving a driveway at property located at 60 Rogers Lane, Map 21, Parcel 069.

Chairman Smith noted that the pressure-treated wood must come out and be replaced with non-pressure treated wood. The applicant needs to mark the no-mow zone. He suggested postponing the hearing until October 28, 2014.

Michael Harnett **MOVED** to continue until October 28, 2014 Steven Kleinberg **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by Ralph Lang for DEP SE 19-683 for construction of an addition and installation of a septic system at property located at 275 Corliss Way, Map 21, Parcel 041.

Shana Brogan noted the no-mow zone is in place and the area has been left to naturalize.

Michael Harnett **MOVED** to approve Certificate of Compliance, Mary Zdanowicz **SECONDED.**

All IN FAVOR.

Requests for Certificate of Compliance filed by Ralph Lang for DEP SE 19-1269 for installation of a new deck and replacement of retaining wall, at property located at 275 Corliss Way, Map 21, Parcel 041.

Chairman Smith noted all work is completed and the area has been left to naturalize.

Mary Zdanowicz **MOVED** to approve the Certificate of Compliance, Michael Harnett **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by EKG properties 19-581 for construction of a single family home on a vacant lot at property located at 40 Bay Shore Lane, Map 13, Parcel 136F.

Peter Markunas of Markunas Environmental Services was present to speak to the project. Shana Brogan recommended keeping condition number twenty nine that says no new coastal engineered structures may be built on the property. Chairman Smith agreed with keeping this condition.

Mary Zdanowicz **MOVED** to approve the Certificate of Compliance, Michael Harnett **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by EKG properties for DEP SE 19-634 for proposed elevated beach access stairway and 3' wide foot path at property located at 40 Bay Shore Lane, Map 13, Parcel 136F.

Peter Markunas of Markunas Environmental Services was present to speak to the project. Chairman Smith noted this project was denied and the stairway was not installed. He noted issuing a Certificate of Compliance will end the paper trail for the deed.

Michael Harnett **MOVED** to approve the Certificate of Compliance, Mary Zdanowicz **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by EKG Properties for DEP SE 19-1036 for proposed 120 cubic yards of sand nourishment for properties located at 15 Sunset Lane, and 40 Bay Shore Lane, Map 13, Parcel 136F and Parcel 138.

Peter Markunas of Markunas Environmental Services was present to speak to the project. Chairman Smith noted this was for a one time use and has expired. The request will close the paper trail for the deed.

Michael Harnett **MOVED** to approve the Certificate of Compliance, Mary Zdanowicz **SECONDED.**

ALL IN FAVOR.

Request for Certificate of Compliance filed by EKG properties for DEP SE 19-1238 for coir rolls and sand drift fencing at property located at 40 Bay Shore Lane, Map 13, Parcel 136F.

Peter Markunas of Markunas Environmental Services was present to speak to the project. Shana Brogan recommended to approve the Certificate of Compliance, but to keep the condition requiring thirty four yards of sand nourishment until the coir envelopes are installed.

Michael Harnett **MOVED** to approve the Certificate of Compliance with the sand nourishment condition, Mary Zdanowicz **SECONDED.**

ALL IN FAVOR.

Extension Permit Requests

DEP SE 19-1205, 37 Cranberry Lane, Map 13, Parcel 061, 100 cubic yards of sand nourishment.

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

ALL IN FAVOR.

DEP SE 19-1204, 35 Cranberry Lane, Map 13, Parcel 062, 100 cubic yards of sand nourishment

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

ALL IN FAVOR.

DEP SE 19-1203, 105 Bay View Drive, Map 10, Parcel 278, sand nourishment

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

ALL IN FAVOR.

Administrative Reviews

380 Governor Prence Road – Tree removal

Shana Brogan noted this is for three dead trees. One tree was in the wetlands and another tree is not on the applicant's property. Chairman Smith noted the commission can not give permission to cut an abutter's tree. The commission will defer this until next meeting.

1120 Samoset Road- Removal of dead oak ninety nine feet from pond.

Mary Zdanowicz **MOVED** to approve, Steven Kleinberg **SECONDED**.
ALL IN FAVOR.

Other Discussion

Brendan Parker – pressure treated wood policy for 51 Longstreet Lane.

Shana Brogan noted the applicant has left and probably got their answers from the earlier hearing on non-pressure treated wood.

Approval of Minutes

February 25, 2014

Mary Zdanowicz **MOVED** to approve, Steven Kleinberg **SECONDED**.
ALL IN FAVOR.

March 11, 2014

Mary Zdanowicz **MOVED** to approve, Steven Kleinberg **SECONDED**.
ALL IN FAVOR.

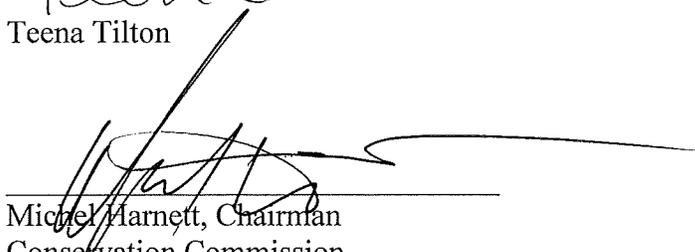
Adjournment 8:40PM

Steven LaBranche **MOVED** to adjourn, Steven Kleinberg **SECONDED**.
ALL IN FAVOR.

Respectfully Submitted as prepared by,



Teena Tilton



Michel Harnett, Chairman
Conservation Commission