

# Eastham Conservation Commission

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Eastham, MA 02642



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**Eastham Conservation Commission  
2500 State Highway  
Earle Mountain Room  
November 10, 2014  
Public Hearing  
MINUTES**

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

**Commissioners Not Present:** Linda Haspel.

**Staff Present:** Shana Brogan.

**Also Present:** Mark White and Ryan Trahan of Environmental Partners, Neil Andres of the Town of Eastham Department of Public Works, Jason Ellis of J.C. Ellis Design, Tim Klink of Coastal Design and Attorney Ben Zhender, Robert Heino, Shawn Shea of Misty Hill Landscaping, Peter Burns, Janice Burns, Gail Bedoukian, Robert Bedoukian, Phil Cheny, Fred Guidi, Gordon Peabody of Safe Harbor Environmental Scott Sebastian and Carl Ericson.

6:00 PM

Chair Smith opened the hearing.

**Request for Determination of Applicability filed by the Town of Eastham. Applicant proposes installation of a public water system in the areas of Contract 3 and Contract 4 at property located at and in the vicinity of Nauset Road, Meetinghouse Road, Brakett Road, Old Orchard Road, and various roads around the landfill, Map 08, 10, 11, 12, 22 and 23.**

Mark White and Ryan Trahan of Environmental Partners represented the application. The applicant provided a brief overview. Mr. Trahan informed the commission they are under various state review projects. They hope to begin work in late spring on contracts three and four. Mr. White noted all side streets are in contract four. They discussed the buffer zone areas where the project would be occurring. The first area would be Nauset Road which includes four or five locations that are in the buffer zone. Work is proposed in the paved service area and the water main will be backfilled immediately as soil is suitable. There will be no change in the drainage patterns. Fire hydrants will be three to four feet from the paved road surface. They do not expect to encounter groundwater. Mr. Trahan described the siltation methods and noted the contractor would be responsible for

ensuring the silt bags are maintained weekly. The water main is installed five feet below grade. They plan to use native loam and conservation seed mix. Mr. Trahan noted the contractors are responsible for cleaning up the area. The main water main will be iron. He also described project details including curb stops and valves.

Michael Harnett asked about water services. Steven LaBranche asked about declorinating, which uses a chemical to remove the chlorine. Mr. Trahan maintains there is no declorinating used. Chairman Smith noted that there is no need to use loam, but wanted to make sure there would be no stockpiles of materials near wetlands. Mr. Trahan said the soil will be back in the hole in thirty minutes, and a siltation barrier would be used.

Mary Zdanowicz **MOVED** to continue to November 25, 2014, Steven Kleinberg **SECONDED.**

**ALL IN FAVOR.**

6:30PM

**Continuation of Request for Amended Order of Conditions filed by the Town of Eastham. Applicant proposes vehicular access over First Encounter Beach and tidal areas to shellfish aquaculture growing sites from October through May at property located at First Encounter Beach, Map 16, Parcel 025.**

Neil Andres of the Town of Eastham Department of Public Works and Peter Burns Aquaculture grant holder at Boat Meadow were present to speak to the project. Mr. Burns said the grant holders have contacted the Audubon about bird monitoring. The Audubon has drafted a plan in which they would come out two times a week for three months. Mr. Burns noted that all grant holders agreed that if birds hatched they would stop using the ATV immediately.

James Baughman **MOVED** to continue to November 25, 2014, Steven Kleinberg **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.**

Neil Andres of the Town of Eastham Department of Public Works was present to speak to the project. He noted he was representing the Town of Eastham, but the aquaculturist Russ Sandbloom who could speak to the details of the project was not present. Shana Brogan noted she received an email from the Mr. Sandbloom that maps out the route they will drive on. She also received an email from Natural Heritage that said the aquaculturist did not submit enough information for them to make a decision. Chairman Smith asked Shana Brogan to email Russ Sandbloom and let him know that he needs to submit more information to Natural Heritage and he needs to find someone to do the bird monitoring. The commission expressed concern about allowing one individual to drive a truck on the beach and requested alternatives analysis.

Steven Kleinberg **MOVED** to continue to November 25, 2014, James Baughman **SECONDED.**

**ALL IN FAVOR.**

**The Beach Association – The Beach Association additional findings for approved beach access stairway at Eastham Ave and Crest Ave, Eastham.**

Mary Zdanowicz acknowledged she has reviewed the record concerning The Beach Association. Steven LaBranche noted that there had been one stairway for the other two stairways and there was one in the middle and they eliminated it.

Mary Zdanowicz **MOVED** to approve the Findings for beach access stairway, Michael Harnett **SECONDED**.

Steven Kleinberg and James Baughman **ABSTAINED**.

**MOTION CARRIED.**

**Continuation of Notice of Intent filed by John and Jane Malloy. Applicant proposes demolishing an existing addition and construction of a larger addition, hardscaping and an outdoor kitchen, foundation plantings and driveway improvements at property located at 25 Bay View Drive, Map 13, Parcel 049.**

Jason Ellis of J.C. Ellis Design, Tim Klink of Coastal Design and Attorney Ben Zhender were present to speak to the project. Mr. Klink noted the one-hundred foot buffer zone would not have an irrigation system and stone areas would be pitched away from the house. Jacuzzi would be a bromine system and a professional would maintain it.

The cedar tree would be coming out and they propose to plant three cedar trees about seven to eight feet tall. In area "C" they will replace Austrian pines with cedar trees.

There is already an existing deck made with pressure-treated wood. Attorney Zhender referenced the Tewhey report on pressure-treated wood and according to this report the chemicals do not leach out of the wood. He also stated that natural decks rot more quickly and replacement results in more activity in the resource area. Attorney Zhender said if the commission is going to rely on pressure-treated studies the commission has to look at this on a case-to-case basis. Chairman Smith noted he has found contrary information to the information provided. Michael Harnett noted pressure-treated wood does leach out. James Baughman noted that the Tewhey report doesn't claim that there is no leaching. Mr. Baughman asked about the chemical bond of the soil, soil particles and the soil type.

Mary Zdanowicz noted that micronized copper azoles are a concern. She said the product is endorsed, because of it's life cycle not the impact to the resource. She also noted it would be placed right near the salt-water boarder and it is treated with water repellent. Attorney Zhender said there would always be caveats about the reports. The commission asked that the applicant submit information that this is the only alternative.

Chairman Smith noted concern about the permeability of pavers set one-fourth of an inch apart and flooding due to heavy rains. He would like to see more diverse plantings for the areas. Mr. Klink said they have to think about safety and the run off is going away from the resource area.

Michael Harnett said they need to know the size of the area and how many plants they would be planting. He would like to see a plan showing where the plants will go and noted it would be better to have a mix of plants.

Mary Zdanowicz said the Tewhey is just an opinion for a different site. The commission said sixteen bayberries among the beach grass would be good. They also said increasing the cedar trees from three to six would be a better plan. They asked Mr. Klink to submit a descriptive plant list by Friday December 14, 2014. The commission also said there is to be no pressure-treated wood allowed.

Steven Kleinberg **MOVED** to approve the Notice of Intent, Michael Harnett **SECONDED**.  
**ALL IN FAVOR.**

**Continuation of Request for Amended Order of Conditions filed by Gail Bedoukian. Applicant proposes maintenance pruning, removal of invasive plants and planting native plants, snow fencing, stone revetment reconstruction and driveway expansion at property located at 18 Horton Way, Map 07, Parcel 093A.**

Gail Bedoukian was present to speak to the project. She went over the project and noted it was not quite the same as the previous project. Mrs. Bedoukian said it was hard to plant when you have large trees. She does not want to take out plants until the other plants get established. Mary Zdanowicz agreed the less disruption the better. Chairman Smith noted the work is for aesthetics and adding plants that have to be maintained is not what the commission does. Chairman Smith also noted the contractor used azac, which the commission has not allowed in other projects.

James Baughman **MOVED** to continue to December 9, 2014, 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**

Robert Heino was present to speak to the project. He said only thirteen trees are proposed to be removed and the fifty-foot buffer zone is to have a split rail fence. According to Mr. Heino the project is not labor intensive and would preserve the stability of the bank. His proposed plan would include one to two inches of loam in the backyard for the lawn. Chairman Smith noted the plan would increase the lawn and top dressing. The proposed plan also calls for the stumps to be ground and for three to four inch annual mowing. Once the project is started it would be continued until completion. The commission also noted that the tree and seed area could be mulch one time. The project is not to be continually mulched.

Michael Harnett **MOVED** to approve the project, Mary Zdanowicz **SECONDED**.  
**ALL IN FAVOR.**

**Continuation of 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.**

Michael Harnett noted problems with the storm water. He referenced the Environmental Protection Agency storm water fact sheet that requires a five percent slope. Mr. Harnett noted that in Minnesota and Pennsylvania the asphalt is not recommended for slopes over five percent if it is near a wetland. Maintenance of the pavement is included in the Environmental Protection Act. Chairman Smith expressed concern about the excavation necessary to install the driveway and noted the present driveway is still functioning. He noted concern about the maintenance with a lot of work going on in the area, including blood grass being replaced. Chairman Smith suggested looking at the conservation restriction and the slope of the driveway.

Mary Zdanowicz **MOVED** to continue to November 25, 2014, Steven Kleinberg **SECONDED**.

**ALL IN FAVOR.**

**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.**

The applicant requested a continuance until November 25, 2015.

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

**ALL IN FAVOR.**

#### **Other Discussion**

**Request to expand entrance planting area including grading, loam, plantings and tree removal at Wiley Park Conservation Area, 1400 Herring Brook Road, Map 10, Parcel 001.**

The applicant requested to be removed from the agenda.

**Fertilizer –discussion and creation of a fertilizer regulation.**

Shana Brogan noted they need to finalize the regulation and let the Cape Cod Commission know by December 1, 2014 that the commission will vote to pass the new regulations. The only outstanding issue is to come up with a definition of a lawn.

#### **Administrative Reviews**

##### **7 Nycoma Way, Beach Sand Nourishment**

Chairman Smith visited the site and did not see any immediate danger to the house. He noted that the house is one-hundred and ten-feet from the coast and that the sand is actually acceding around the buried sand fence. Since there is no urgency he advised the applicant to file the Notice of Intent and go through the process.

##### **700R Ocean View Drive, Low Impact Biomimicry for sand collection**

Gordon Peabody of Safe Harbor Environmental was present to speak to the project. Mr. Peabody would place the planks in the sand during the winter and take them out in the spring.

Mary Zdanowicz **MOVED** to approve the use of Biomimicry, Michael Harnett **SECONDED**.

**ALL IN FAVOR.**

##### **265 Harmes Way, Low Impact Biomimicry for sand collection**

Gordon Peabody of Safe Harbor Environmental was present to speak to the project. Mr. Peabody would place the planks in the sand during the winter and take them out in the spring.

Michael Harnett **MOVED** to approve the use of Biomimicry, Mary Zdanowicz **SECONDED**.

**ALL IN FAVOR.**

##### **Herring Brook Road – tree removal in riverfront**

The commission deferred to the next meeting.

**150 Meetinghouse Road, removal of dead trees**

Chairman Smith noted he visited the site and approves of the tree removal.

Michael Harnett **MOVED** to approve the removal of the trees, James Baughman **SECONDED**.

**ALL IN FAVOR.**

**40 Kittiwake Lane, removal of fallen dead pine tree**

Shana Brogan noted the tree is dead with no limbs and recommends the tree be removed.

Michael Harnett **MOVED** to approve the tree removal, James Baughman **SECONDED**.

**ALL IN FAVOR.**

**Extension Permit Requests**

**DEP SE 19-1437 for Vista Pruning at 10 Drake Circle.**

The applicant would like to extend his pruning permit.

Michael Harnett **MOVED** to approve the extension permit, Mary Zdanowicz **SECONDED**.

**ALL IN FAVOR.**

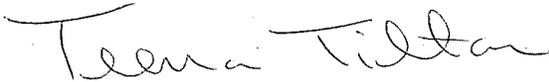
**10:45 PM**

**Adjournment**

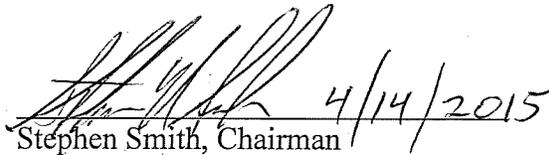
Steven LaBranche **MOVED** to adjourn, Mary Zdanowicz **SECONDED**.

**ALL IN FAVOR.**

Respectfully Submitted as prepared by,



Teena Tilton



4/14/2015

Stephen Smith, Chairman  
Conservation Commission