

Eastham Conservation Commission

2500 State Highway
Eastham, MA 02642
508-240-5900



MINUTES

Conservation Commission Meeting 6:00 P.M, Tuesday, February 8, 2022

Commissioners Present: Sheila Filipowski, Thomas Durkin, Karen Strauss, Janet Benjamins, Charles Wagner, Suzanne Bryan.

Agent Present: Charles Katuska

Also Present: Charles Wentz, John Schnaible, John & Uelia Hayward, Laura Schofield, Catherine Ricks, Todd Turcotte, Chris Crowbar, Trent Sullivan, Nicole Paine, Jacqueline Beebe, Gordon Peabody, Tim Klink, Bill Allen, Laura & Stephen Niedzwiecki, Jon Mason.

6:00 PM Meeting opened by Sheila Filipowski and executed roll call.

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

PUBLIC HEARINGS

Notice of Intent filed by Jeffrey and Kerry Cogen. Applicant proposes to restore view corridors at property located at 45 Herring Brook Road, Map 17, Parcel 501A.

Charles Wentz represented the applicant and discussed the proposed project with the commissioners.

The Conservation Chair inquired how the plan compares to the previous plan.

Janet Benjamins **MOVED** to close the public hearing. Karen Strauss **SECONDED**, **ALL IN FAVOR**.

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

The Conservation Agent stated adding a condition that the vista view can be re-pruned on a 3-year cycle as long as the scope of work does not expand.

Charles Wagner **MOVED** to approve. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Notice of Intent filed by John D. & Uelia H. Hayward. Applicant proposes a smaller deck, new foundation, stone driveway addition and removal of one tree at property located at 11 Smith Lane, Map 20, Parcel 120.

John Schnaible represented the applicant and discussed the proposed project with the Commissioners.

The Commissioners inquired on the driveway, pressure treated wood posts, the flood zone and how it is not complying with the Town's bylaw, and the construction of the garage.

The Conservation Agent stated that he has no concerns over this proposal and specified why. The Conservation Agent did inquire if the applicant was going to continue to mow between the mitigation areas.

The John & Uelia Hayward also represented their project and stated that they do not mind having a no mow zone.

Karen Strauss **MOVED** to close the meeting. Janet Benjamins **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

The Conservation Agent inquired if the commissioners were ready to vote to approve with regular conditions with an extra condition concerning pressure treated wood not coming in contact with the ground.

Karen Strauss **MOVED** to approve. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Notice of Intent filed by Avigdor Konig. Applicant proposes construction and ongoing maintenance of a sand drift fence at property located at 29 Longstreet Lane, Map 10, Parcel 334.

Laura Schofield represented the applicant and discussed the proposed project with the commissioners, and explained that this proposal is the same as the next two.

The Commissioners inquired about a limit of work and buffer zones not being reflected on the site plan, how the deck corner looks to be encroaching into the dune, inquired on the elevation of the deck and requested more detail on the deck expansion.

The Representative feels that a limit of work would cause more harm to the dune and continued to explain the reasons with the Commissioners.

The Commissioners inquired if the residents will be walking around the house and requested more information explaining the limit of work.

The Conservation Agent discussed a limit of work versus erosion control barriers with the Commissioners and Representative. The Conservation Agent also read an abutters letter stating concern for the upper roof deck and the impact on their privacy.

The Conservation Chair requested a continuation until February 22, 2022.

Suzanne Bryan **MOVED** to continue until February 22, 2022. Karen Strauss **SECONDED, ALL IN FAVOR**

Benjamins – YEA

Bryan - YEA

Durkin – YEA

Strauss - YEA

Wagner - YEA

Filipowski –YEA

Notice of Intent filed by Douglas and Sarah Harvey. Applicant proposes reconstruction and ongoing maintenance of a sand drift fence at property located at 27 Longstreet Lane, Map 10, Parcel 333.

Laura Schofield represented the applicant and discussed the proposed project with the Commissioners.

The Commissioners inquired on the site not being staked out, nourishment options, access to the worksite, showing resource area and buffer zones be reflected on the site plan.

Janet Benjamins **MOVED** to close the meeting. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA

Durkin – YEA

Strauss - YEA

Wagner - YEA

Filipowski –YEA

The Conservation Agent stated the Standard Conditions for sand fences, a condition concerning nourishment and the applicant getting a staging permit for access to the area.

Janet Benjamins **MOVED** to approve with conditions stated. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Notice of Intent filed by Rocky Melchiorri. Applicant proposes construction and ongoing maintenance of a sand drift fence at property located at 1140 Kingsbury Beach Road, Map 10, Parcel 332.

Laura Schofield represented the applicant and discussed the proposed project with the commissioners.

The Conservation Chair inquired if the Representative agreed on using the same Conditions stated in the prior proposal, which are Standard conditions for sand fences, a condition concerning nourishment and the applicant getting a staging permit for access to the area.

Charles Wagner **MOVED** to close the public hearing. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

The Conservation Agent stated the same conditions as the prior proposal

Thomas Durkin **MOVED** to approve with conditions stated. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Notice of Intent filed by George F. C. & D. Sui-Wen. Applicant proposes to dismantle and rebuild existing rock revetment and proposes 73 cubic yards of annual nourishment at property located at 6 Nans Way, Map 07, Parcel 514A.

Catherine Ricks and Todd Turcotte represented the applicant and discussed the proposed continuation information with the commissioners. The Representative discussed fiber rolls and the design of the revetment.

The Commissioners discussed splash apron as an alternative, the abutter's revetment concern, amount of nourishment, the revetment being overtopped and how many times it has happened, the Geotek fabric and if it will be removed and how far the fabric goes into the revetment, sea-level rising, and concern for adjoining properties and scouring.

The Conservation Agent discussed the Geotek fabric, vegetation, protection of one dwelling on the properties and the effects on the other condominiums and the stairs.

The Commissioners inquired on the nourishment, and asked where it would be placed. The Conservation Agent stated that the representatives are offering 73 cubic yards and advised the representative that the nourishment calculations could be higher.

The Conservation Agent suggested that the hearing be continued until the next meeting. A Commissioner inquired on the fiber rolls and continued to discuss the water toping, elevation and erosion.

Thomas Durkin **MOVED** to continue until February 22, 2022. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Request for Amended Order of Conditions (SE 19-1762). Permittee (Town of Eastham) proposes expanding approved truck access from First Encounter Beach to the Boat Meadow Aquaculture Development Area to include the months of June-September at property located at 1620 Samoset Road, Map 16, Parcel 012.

Chris Crowbar, Trent Sullivan Nicole Paine, Jacqueline Beebe represented the application and discussed the proposed project with the commissioners.

The Commissioners discussed granting ongoing permission, animal life, topography of the beach and recreation.

The Representatives discussed the proposed access and how the select board would be issuing the licenses and would treat it as a seasonal license.

The Commissioners inquired if permission could be granted for three years and then review the application after the three years, receiving data at the end of each year, concerns stated by the Division of Marine Fisheries and Nature Conservancy, driving route change, and protecting the horseshoe crab.

The Representative offered to hire someone to walk the beach at dawn.

The Commissioners continued to inquire on the number of low tides, no access on the weekends for the month of July and August, possible trial run, monitoring reports, data collection, and continuing the hearing and creating a draft Order of Conditions for review.

The Conservation Agent discussed a possible condition concerning someone walking the marked path prior to daily access for horseshoe crabs and continued to discuss this with the Commissioners.

The Conservation Commissioners discussed on shortening the path, changing the route and granting access with conditions.

The Conservation Chair inquired to when the proposed request should be continued too.

Suzanne Bryan **MOVED** to continue until February 22, 2022. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA

Strauss - YEA
Wagner - YEA
Filipowski –YEA

Request for Amended Order of Conditions filed by John R Jr. & Eileen C Oslund. Applicant proposes to use pressure treated wood at property located at 80 Lawton Road, Map 14, Parcel 45.

Gordon Peabody represented the applicant and discussed the proposed project with the commissioners.

The Commissioners discussed the pressure treated wood bylaw with the Representative.

The Conservation Chair inquired to why the Representative was there if the pressure treated wood was not going to be in contact with the ground and asked the Representative if they wanted to withdrawal the Amended Order of Conditions request and the Representative agreed.

Request withdrawn.

REGULATORY DETERMINATIONS

Request for Determination of Applicability filed by Susan F. Berg Nominee Trust. Applicant proposes water service installation at property located at 875 Herring Brook Road, Map 13, Parcel 113.

The Conservation Agent summarized the proposed application and recommended approval under a Negative Determination of Applicability for Reason number 3.

Charles Wagner **MOVED** to approve. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Request for Determination of Applicability filed by Mckinley Family Trust, Christina M. Green TTEE. Applicant proposes to replace a retaining wall, construct a patio, add drainage, remove 4 trees and provide mitigation at property located at 20 West Road, Map 04, Parcel 482.

Tim Klink represented the applicant and discussed the proposed project with the commissioners.

The Commissioners inquired if the RDA was a sufficient filing for this request, questioned the construction details concerning the wall, removing vegetation and the process of prohibiting the vegetation to grow back, the process to remove the pressure treated wall, and the tie backs for the walls.

The Conservation Agent summarized the proposed application and recommended approval under a Negative Determination of Applicability for Reason Number 3 with a Condition to cut the vegetation back annually until the root system has become exhausted.

Suzanne Bryan **MOVED** to approve. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA

Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

ADMINISTRATIVE MATTERS

Extension Permit for SE 19-1740 request a three-year extension for the habitat improvement plan to establish safe nesting sites for the state listed diamondback terrapin on upland sections of the Bee’s River Marsh and 4 (four) upland sites at Boat Meadow Marsh located at the bridge on Bridge Road located at 655, 735, 795 Herring Brook Road Map 14 Parcels 015, 016A, 016B. 0, 775, 780, 725 Bridge Road Map 20 Parcels 092, 093, 090, Map 19 Parcel 002.

Bill Allen represented the extension request and discussed the success of the project with the Commissioners.

Karen Strauss **MOVED** to approve the extension for three years. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Extension Permit for SE 19-1692 request a three-year extension for the removal of invasive species and revegetation at property located at 10 Old Squaw Place, Map 16 Parcel 3.

The Conservation Agent summarized the proposed extension and advised the Commissioners that some of the mitigation was mowed by mistake.

The Commissioners inquired to how the applicant was going to stop wild life from eating the mitigation and suggested physical markers to prevent others from landscaping the mitigated area,

Karen Strauss **MOVED** to approve. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Plan Change Request for SE 19-1824 for water line installation at property located at 10 Cliff Road, Map 18, Parcel 047.

The Conservation Agent summarized the plan change and recommended approval.

Karen Strauss **MOVED** to approve. Thomas Durkin **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA

Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Plan Change Request for SE 19-1826 for two locust trees to be removed at property located at 245 Mill Road, Map 15, Parcel 024.

The Conservation Agent summarized the plan change and recommended approval.

Karen Strauss **MOVED** to approve. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Administrative Review filed by Laura & Stephen Niedzwiecki. Applicant proposes to remove 4 trees at property located at 610 Samoset road, Map 14, parcel 088.

Laura & Stephen Niedzwiecki represented their application and advised the Commissioners to why they are proposing to remove the trees.

The Conservation Chair reviewed pictures of the trees with the Commissioners and recommended approval.

The Commissioners stated that the Administrative Review should state four trees instead of two and the Conservation Agent stated he would change the application to reflect four trees and the mitigation of four shrubs and four trees.

Karen Strauss **MOVED** to approve with changes stated. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Administrative Review filed by Jon Mason. Applicant proposes to remove 5 trees at property located at 20 Cedar Lane, Map 21, Parcel 059.

The Conservation Agent summarized the proposed project with the Commissioners.

The Commissioners discussed wind throw, and the necessity of taking down all 5 trees.

Jon Mason represented his application and stated the issue with the trees.

Commissioners discussed leaving a snag, removing the trees by the deck, the health of the trees and hearing from the Tree Company, a double trunk tree and its issues, and continuing the meeting until February 22, 2022.

Janet Benjamins **MOVED** to continue until February 22, 2022. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Continuation of Administrative Review filed by Sarah Mumford. Applicant proposes to remove 2 trees at property located at 55 Clark’s Point Road, Map 14, Parcel 85M.

The Conservation Agent summarized the proposed application.

Karen Strauss **MOVED** to approve. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Violations

The Conservation Agent discussed 90 Log Cabin Road and requested permission to fine the owner if materials requested is not in the office by a certain date. The Commissioners agreed.

Liaison Reports

The Commissioners discussed their Liaison Reports.

Education & Training Updates

The Commissioners discussed their Education and Training Opportunities.

Minutes

November 23, 2021
December 14, 2021
December 28, 2021

Charles Wagner **MOVED** to approve all minutes listed. Karen Strauss **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA

Filipowski –YEA

Other Discussion

The Commissioners discussed amending the by-law and filing fees, pressure treated wood regulations with the Conservation Agent.

The Commissioners also discussed removing the sentence in the Town of Eastham’s by-law, within section 12 that stated, **new docks and reconstructed portions of existing docks shall be constructed entirely of materials that do not contain toxic materials, including but not limited to chromate copper arsenate.**

Karen Strauss **MOVED** to propose a warrant article for the removal of the above sentence from the by-law at the Town Meeting. Suzanne Bryan **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Bryan - YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Suzann Bryan left the meeting.

The Commissioners continued to discuss filing fees and the Conservation Agent suggested putting this on the next agenda and the Commissioners agreed.

Karen Strauss **MOVED** to adjourn. Charles Wagner **SECONDED, ALL IN FAVOR.**

Benjamins – YEA
Durkin – YEA
Strauss - YEA
Wagner - YEA
Filipowski –YEA

Respectfully Submitted as prepared by,



Amy Blakesley



Sheila Filipowski, Chairman Conservation Commission