



CONSERVATION COMMISSION MINUTES

131 Pleasant St
Trailer, Room A
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Thursday, February 6th, 2025 – 5:00 p.m.

This meeting was held in a hybrid format with some participation using ZOOM and YouTube.

<https://youtube.com/live/3Jqr45Wf0wc>

Commissioners: Seth Engelbourg (Chair), Tim Braine, Linda Williams (Vice Chair), Mike Misurelli, Joe Plandowski, RJ Turcotte, and John Schafer

Called to order at 5:00 p.m. by Chair Engelbourg

Staff in attendance: Will Dell Erba - Conservation Agent

Attending Members: Engelbourg, Briane, Misurelli, Plandowski, Turcotte, Schafer, Williams

Absent Members: -

Members Left Early: -

I. Acceptance of Agenda

Motion	Motion to accept Agenda (Made by: Misurelli) (Seconded by: Plandowski)
Vote	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

II. PUBLIC MEETING - Public Comment

Chair Engelbourg called for public comment.

Public Comment	No public comment
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III. PUBLIC HEARING

A. Notice of Intent – No Waiver Required: Pre-January 1st Submissions

1. Grell- 21 Field Avenue (80-41) SE48-3882 (Santos) (withdrawn)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, and Williams
Recused:	
Motion	Motion to accept withdraw of application (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 6-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams (aye) Turcotte (technical problems)

2. 3 Star Farm LLC- 76 Eel Point Road (32-31) SE48-3884 (Rits)

Sitting:	Misurelli, Braine, Plandowski, Schafer, Turcotte, and Williams
Recused:	Engelbourg
Discussion	Mark Ritz Requested continuance to address some additional comments and concerns
Motion	Continued until February 20th

B. Notice of Intent- No Waiver Required

1. Dyson- 49 Meadow View Drive (56-390) SE48-3891 (Madden)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
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Recused:	
Motion	Motion to close (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. *South Slip LLC- 29A Old North Wharf (42.3.1-225.3) SE48-3892 (Gasbarro)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Art Gasbarro
Documentation:	Site and topographical maps
Discussion:	Gasbarro - Presented Item – DEP had no comments Engelbourg - Believes the project makes sense but need a little more information for protection pre “78 structures - Requested more history or waiver Gasbarro - Historic arial 1971 chart - One of the oldest piers - Requested continuance to provide more information
Public Comment	
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (Made by: Plandowski) (Seconded by: Schafer)
Action	Cont. February 20th

C. Notice of intent – Waiver Required: Pre-January 1st Submissions

1. Thank You Aline Nominee Trust- 3 Wyers Way (41-380) SE48-3876 (Gasbarro)

2. 3WW Nominee Trust- 3B Wyers Way (41-380.1) SE48-3877 (Gasbarro)

Sitting:	Engelbourg, Braine, Plandowski, Schafer, Turcotte, Williams, Misurelli
Recused:	
Representatives:	Art Gasbarro
Documentation:	Site and topographical maps
Discussion:	Gasbarro - Presented item and solved a few abutter conflicts - Provided ground water data
Public Comment	No Public comment
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (Made by: Williams) (Seconded by: Misurelli)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

3. 72 Pocomo Nominee Trust- 72 Pocomo Road (15-37) SE48-3878 (Gasbarro)

4. Seven Pines, LLC- 78 Pocomo Road (15-39) SE48-3879 (Gasbarro)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	

Representatives:	Art Gasbarro
Documentation:	Site and topographical maps
Discussion:	Gasbarro - Presented items Engelbourg - In receipt for a letter from Baileys Firm Mr. Bailey - - Wrote letter explaining why it is not a Coastal Engineering Structure but a soft structure - Commission in the past found this type of system is not a CES - Explained work done and findings at neighboring properties Misurelli - DEP CES versus local bylaw - Believes Coir Logs are not CES Turcotte - Not bound by prior decisions - Believes it is a CES Engelbourg - Commissioners are given discretion to enact bylaws and not bound by past decisions - Agrees with Bailey it doesn't meet a CES under DEP but does meet it under CES - Doesn't have problem with project but needs to be permitted correctly - Can't proceed with viewing as not a CES - Talked about materials Misurelli - Can permit with waiver? Engelbourg - Yes Bailey - Minds can differ and no interest in contesting in court - Commissioners have to treat similar applicants in similar ways - Agrees commission is not bound by previous decisions - Questions if they've requested a waiver Gasbarro - Yes - Believes they've provided enough for adverse impacts Plandowski - We ought to use one regulation because this problem will just keep coming up Engelbourg - Does not feel anyone wants to deny project but does seem to be a different of opinions in CES Braine - Yes CES Misurelli - No CES but will agree with waiver Plandowski - Waiver but does not think it is a CES Turcotte - Yes, CES questioned date Gasbarro - Not pre-1978

	Schafer • Not CES but likes it Williams • Not CES and waiver Engelbourg • Is CES but will grant waiver • Appears there is four commissioners who do not think it is a CES
Public Comment	Willa Arsenault– NLWC • The bylaws allow for the commission to look at these issues as they come up • Does believe it is a CES Williams • Turcotte must recused Engelbourg • Up to Turcotte Williams • Still struggling Engelbourg • Another opportunity to discuss later
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (Made by: Plandowski) (Seconded by: Williams)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

D. Amended Orders of Conditions – No Waiver Required (none)

E. Amended Orders of Conditions – Waiver Required (none)

IV. PUBLIC MEETING

A. Orders of Conditions/Amended Orders of Conditions – No Waiver Required: Pre-January 1st Submission

1. *3 Star Farm LLC- 76 Eel Point Road (32-31) SE48-3884 (Rits)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Dell “Erba
Documentation:	Site and topographical maps
Discussion:	Engelbourg • Add standard condition and condition adding no chemicals Williams • Batching 18, 19, 20 21L Dell ‘Erba • 18, 19 added if landscaping Engelbourg • Theres a general permit page • Proud of general condition 19
Public Comment	
Staff Recommendation:	Conditions 18, 19, 20, 21, 2
Motion	Motion to approve as amended (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

B. Orders of Conditions /Amended Orders of Conditions – No Waiver Required

C. Orders of Conditions/Amended Orders of Conditions-Waiver required

1. Thank You Aline Nominee Trust- 3 Wyers Way (41-380) SE48-3876 (Gasbarro)
2. 3WW Nominee Trust- 3B Wyers Way (41-380.1) SE48-3877 (Gasbarro)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	
Public Comment	
Staff Recommendation:	Conditions 18-25 and a waiver for ground water and 26, 27 for 3B
Motion	Motion to approve issue as amended (Made by: Misurelli) (Seconded by: Williams)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

3. 72 Pocomo Nominee Trust- 72 Pocomo Road (15-37) SE48-3878 (Gasbarro)
4. Seven Pines, LLC- 78 Pocomo Road (15-39) SE48-3879 (Gasbarro)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Engelbourg • Think they are deficient in the sand coverage • Biological and chemical occurrences in additional to grain size Misurelli • Good with that and concerned about access Engelbourg • Updated plan should be submitted with site access Baine • Agrees with sand requirements Williams • Agrees Dell 'Erba • Kicked off shared drive so can't apply waivers immediately Engelbourg • Apply a waiver for a CES or not Braine • Questioned a vote several weeks ago if a coir was voted as a CES Engelbourg • Have to view each project individually • Opinions only, and this project and address only Turcotte • Yes, projects are separate and are not agreeing on a definition, but that discussion needs to be had eventually Engelbourg • Will have that discussion at next meeting Williams • Wants policy meeting before ay Engelbourg

	- Explains definitions of structure and Coastal Engineering Structure and explains his interpretation Williams - Explain why it wouldn't be a CES Engelbourg - Explains DEP's issuance that it isn't a CES - Past Commissioners decisions have not ben unanimous Williams - Think it's worth discussing and has a foot in both camps Engelbourg - Can say both, under state and local - Can issue two permits Misurelli - Sticking with decision and has willingness to talk about it at the regulatory hearing Engelbourg - Will hold this over to the 2/20 meeting Schafer - If not a CES, can we still put conditions Engelbourg - Yes, but more conditions on CES Braine - Term CES isn't useful and needs to be changed Engelbourg - Can change but still in same situation - Direct will to write up both possibilities Williams - Requests 3rd on that combines both
Public Comment	
Staff Recommendation:	Conditions 18-22 Waivers up for discussion
Motion	
Action	Cont. 2/20

D. Request for Delineation of Applicability – Delineation Only (none)

E. Request for Determination of Applicability – Work Requested (none)

F. Minor Modifications

1. Squam Holdings, LLC- 31 Squam Road (21-3) SE48-3670 (Madden)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Brian Madden
Documentation:	Site and topographical maps
Discussion:	Madden Presented item
Public Comment	
Staff Recommendation:	Issue minor modification
Motion	Motion to issue minor modification (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. ARB Way LLC- 9 Arbour Way (29-137) SE48-3526 (Haines)
3. 42/44 ARBWAY LLC- 9 Arbour Way (29-137) SE48-3589 (Haines)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Daivd Haines
Documentation:	Site and topographical maps
Discussion:	Haines Presented item
Public Comment	
Staff Recommendation:	Issue minor modifications
Motion	Motion to issue both minor modification (Made by: Williams) (Seconded by: Schafer)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

G. Certificate of Compliance

1. Ferguson- 50 Hulbert Avenue (29-62) SE48-3553 (Blackwell)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Staff
Documentation:	Site and topographical maps
Discussion:	Engelbourg Requested anyone requesting COC to add the conditions
Public Comment	
Staff Recommendation:	Issues COC
Motion	Motion to issue COC (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

H. Extension Requests (None)

I. Other Business

1. **Approval of Minutes -None**
2. **Monitoring Reports**
3. **Committee Reports - CRAC, CPC, NP & EDC, Harbor Plan, etc.**

CRAC:	Braine N/A
CPC:	Schafer N/A
NP&EDC:	Misurelli N/A
Harbor Plan	Williams Meeting Monday and working through it

4. Commissioner Comments

Discussion:	Williams Great meeting Misurelli
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	- Went to 76 Eel Point Engelbourg - Cannot talk about properties about properties on agenda Misurelli - Requests engineer is present during site visit Engelbourg - Thats fine, cannot talk about specific projects Dell 'Erba - Will take care of it Engelbourg - Not restricted to 1 site viewing Williams - Has issue the surveyors are not here and cannot have discussion of merits on site - Not going to require an engineer to come over for a half hour Engelbourg - Not requiring they are requesting Dell 'Erba - Provides tons of clarification of they come Engelbourg - You are allowed to post field viewings as a meeting - Has been on one field viewing that had been a meeting Williams - Last one was when all the trees were cut down in Sconset Engelbourg - Will will send a nice letter Williams - Cannot be at field viewings on Tuesdays Turcotte - Super helpful on more complicated applications
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5. Enforcement Actions

Discussion:	Dell 'Erba - Plover Lane, back portion of lot in Wauwinet - Sizeable, cleared wetland - Everything was cut and removed - Wants enforcement order ratified and date set (21-31) days for them to come to a meeting tonight, he can send out a full letter Engelbourg - Address is 14 Plover - Once discovered, will issue letter and they need to ratify said letter along with additional conditions - Homeowners and contractors can appear at meeting Williams - How far in does cut go Engelbourg - Can and have gone in, entirety of parcel has been altered in some way Williams - Did he cute the entire wetland Engelbourg - Yes - It is clear it is a wetland
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	- Significant alteration and one of most significant violations Williams - Very confused about why this would be done Engelbourg - Need to have a discussion about how many days until they can come 28 days Misurelli - Does not need exact amount of days Engelbourg 20th or March 6th meeting Williams - Wants 6th Engelbourg - Do commissions want homeowners to come to meeting on March 6th Would commissioner like to issue finds or wait and see Williams - Wants to wait Plandowski - Believes the ax fine is \$300 Misurelli - Wait but yes fines Engelbourg - Generally, proceeds with enforcements under civil routes, can do criminal but it would have to be extreme - Big box sores building inside a wetland
Motion	Motion made to include condition that homeowners must attend next meeting and ratify enforcement order (made by Williams) (Seconded by Plandowski)
Vote	Carried://7:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer, Turcotte (aye)

6. Staff Reports

Discussion:	Dell Erba Won't be able to be reached until Wednesday morning
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Adjournment:

Motion:	Motion to adjourn. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer, Turcotte (aye)

Submitted by: Morgan Nelson