



CONSERVATION COMMISSION MINUTES

131 Pleasant St

Trailer, Room B

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, March 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/Qc9NuBDXOMg>

Commissioners: Seth Engelbourg (Chair), Linda Williams (Vice Chair), Tim Braine, 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: - Williams, Braine arrived 5:02 pm

Members Left Early: -

I. Acceptance of Agenda

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

II. PUBLIC COMMENT

Chair Engelbourg called for public comment.

Public Comment	Allison Hudson - Confirming 14 Plover is on the agenda Engelbourg - Yes, under enforcements
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III. PUBLIC HEARING

A. Notice of Intent – No Waiver Required: Pre-January 1st Submissions - None

B. Notice of Intent- No Waiver Required

1. *McCausland- 10 Smooth Hummocks Way (82-12) SE48-3897 (Gasbarro) Turcotte recused

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams
Recused:	Turcotte
Staff Recommendation:	All items to close have been received
Motion	Motion to close (made by: Plandowski) (Seconded by: Williams_
Vote	Vote Carried: 6-0 Engelbourg, Braine Misurelli, Plandowski, Schafer, Williams (aye) Turcotte recused

2. *Wolfram Family Trust- 7 Folger Lane (42.4.4-33.3) SE48-3894 (Madden)

3. *Friedman- 35 Pilgrim Road (41-16.3) SE48-3896 (Rits)

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

4. Town of Nantucket- 2 Ames Avenue & Dionis Beach (60-138 & 32 &18) SE48-3895 (Nelson)

Sitting:	Engelbourg, Braine, Plandowski, Schafer, Williams, Misurelli, Turcotte
Recused:	
Representatives:	Leah Hill
Documentation:	Site and topographical maps
Discussion:	Hill - Presented item Turcotte - Didn't believe it qualified as a water dependent use but is permissible Engelbourg - Believes not a water dependent use - Aeolian sediment - Will have to issue waiver for it - Described waiver - Doesn't believe it's a structure because it's not a fixed structure - Public benefit waiver Williams - Comfortable with that Briane - Agreed Plandowski - Glad it's not a structure Misurelli - Good with that Hill - No response from heritage yet Dell 'Erba - Items have been ordered so we will be fine to start this Engelbourg - Hopefully no one appeals Williams - Questioned meeting next week Engelbourg - Yes but will not use special meetings for that purpose
Public Comment	
Staff Recommendation:	Missing Mass heritage response
Action	Cont. 3/20

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

1. Lydia Denney Palmer LLC- 110 Wauwinet Road (11-29) SE48-3868 (Madden)

Sitting:	Engelbourg, Braine, Plandowski, Schafer, Turcotte
Recused:	Misurelli, Williams
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Madden - Presented changes to item since last meeting Turcotte - Thanked Brian for the changes and site visit

Public Comment	John Walker - Abutter • Opposes this project due to environmental impacts • Unnecessary • Aesthetic impact • History of violations • Wants an enforcement on the flagpole Natalie Kaufman • Thanks Commission
Staff Recommendation:	All necessary items have been received to close
Motion	Motion to close (Made by: Plandowski) (Seconded by: Turcotte)
Vote:	Vote Carried: 5-0 Engelbourg, Braine, Turcotte, Plandowski, Schafer (aye) Williams and Misurelli recused

D. Notice of Intent – Waiver Required

1. *NED Site Management LLC- Shoal Dredging off of 34 Straight Wharf (42.2.4-15) SE48-3900 (Vardy)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	Carlos Pena
Documentation:	Site and topographical maps
Discussion:	Pena • Presented item and received DEP file number
Public Comment	No public comment
Staff Recommendation:	All items have been received to close
Motion	Motion to close (Made by: Plandowski) (Seconded by Williams)
Action	Vote Carried: 7-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

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

F. 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 (none)

B. Orders of Conditions /Amended Orders of Conditions – No Waiver Required – None

1. *Wolfram Family Trust- 7 Folger Avenue (42.4.4-33.3) SE48-3894 (Madden)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Dell 'Erba presented item Engelbourg • Requested conditions 21 and 22
Public Comment	
Staff Recommendation:	Conditions 18-22
Motion	Motion to issue the order as amended (Made by: Williams) (Seconded by: Plandowski)
Vote:	Vote Carried: 7-0, Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. *McCausland- 10 Smooth Hummocks Way (82-12) SE48-3897 (Gasbarro)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Williams
Recused:	Turcotte
Representatives:	
Documentation:	Site and topographical maps
Discussion:	
Public Comment	
Staff Recommendation:	
Motion	Motion to issue the order as amended (Made by: Misurelli) (Seconded by: Plandowski)
Vote:	Held over until 3/20

3. *Friedman- 35 Pilgrim Road (41-16.3) SE48-3896 (Rits)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Dell 'Erba presented item
Public Comment	
Staff Recommendation:	
Motion	Motion to issue the order as drafted (Made by: Schafer) (Seconded by: Williams)
Vote:	Vote Carried: 7-0, Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

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

1. Lydia Denney Palmer LLC- 110 Wauwinet Road (11-29) SE48-3868 (Madden)

Sitting:	Engelbourg, Braine, Plandowski, Schafer, Turcotte
Recused:	Williams and Misurelli recused
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Dell 'Erba presented item Schafer • Questioned appeal process Engelberg • Well documented in the wetlands protection act Madden • Clarified the plantings and split rail fence
Public Comment	
Staff Recommendation:	Conditions 18-21
Motion	Motion to issue the order as amended (Made by: Schafer) (Seconded by: Plandowski)
Vote:	Vote Carried: 5-0, Engelbourg, Braine, Plandowski, Schafer, Turcotte (aye) Williams and Misurelli recused

2. NED Site Management LLC- Shoal Dredging off of 34 Straight Wharf (42.2.4-15) SE48-3900 (Vardy) *discussed very last*

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
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Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Dell 'Erba - Presented item Engelbourg - No waiver is required
Public Comment	
Staff Recommendation:	
Motion	Motion to issue (Made by: Plandowski) (Seconded by: Williams)
Vote:	Vote Carried: 7-0, Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

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

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

F. Minor Modifications (none)

1. Neda Movaaghar Revocable Trust- 9 Woodbury Lane (41-551) SE48-3631 (Madden)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Engelbourg Plans didn't make it to the pack so we need to continue
Public Comment	
Staff Recommendation:	
Motion	
Vote:	Cont. 3/20

2. Three North Road LLC-7 North Gully Road (73.1.3-123) (Haines)

Sitting:	Engelbourg, Williams, Braine, Plandowski, Schafer, Turcotte
Recused:	Misurelli
Representatives:	David Haines
Documentation:	Site and topographical maps
Discussion:	David Haines presented item Schafer - Questioned the depth of the trenches Haines - Below the frost line so they won't freeze
Public Comment	
Staff Recommendation:	All information has been received to close
Motion	Motion to issue the minor modification (Made by: Plandowski) (Seconded by: Schafer)
Vote:	Vote Carried: 6-0, Engelbourg, Braine, Plandowski, Schafer, Turcotte, Williams (aye) Misurelli recused

G. Certificate of Compliance

1. . Passanante- 41 Long Pond Drive (59.4-109.1) SE48-3205 (Bracken)

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	
Documentation:	Site and topographical maps
Discussion:	Dell 'Erba - Presented item - One additional finding of coastal storm flowage Engelbourg - Applicant must attach all findings
Public Comment	
Staff Recommendation:	No continuing conditions
Motion	Motion to issue COC with no ongoing conditions (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 -06/27/2024, 07/11/2025, 07/25/2024, 08/08/2024, 08/22/2024

Sitting:	Engelbourg, Misurelli, Braine, Plandowski, Schafer, Williams
Recused:	Turcotte abstained
Motion	Motion to approve (Made by: Misurelli) (Seconded by: Williams)
Vote:	Vote Carried: 6-0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Williams (aye) Turcotte abstained

2. Monitoring Reports- None

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 Still slogging through but into recommendations

4. Commissioner Comments

Discussion:	Williams - Good meeting Engelbourg - Thers been some difficulty in figuring out what a CES and structure is, will have to make this specific update prior to the next meeting - Suggests changing wording in definitions to including “continuously fixed” - Brought up coir terraces and discussed combination of words make up of materials Williams - Works for me Engelbourg - Will have to schedule meeting Plandowski
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	• Should try to keep regulations with uniformity Engelbourg • The changes he's presenting would allow for such unless it's different material
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5. Enforcement Actions – 14 Plover Lane

Discussion:	Engelbourg • Explained enforcement Brian Madden • Explained what was cut and what the survey they undertook for compliance to restore was • Will present file on April 3rd meeting • Letter was submitted from property owner • Representative is not on meeting Williams • Questioned who did the work Madden • Does not know who provided the work Engelbourg • Requested to find out who did so Misurelli • Did look over the letter • Looking forward to seeing remediation plans as soon as possible Briane • Questioned the procedure of the homeowner providing plans Engelbourg • Explained Madden • Intent is to have site plan within depth monitoring et Plandowski • Should wait till they get proposal Madden • Wants it to be complete and willing to meet commissioners out at property Glenn Wood – Representing applicant • Once a mitigation/restoration plan is submitted agrees to proceed through that rather than an NOI Engelbourg • Goal is to mitigate damage done and restore habitat • Egregious nature • Significant violation • Explained violation and commissioner's goal • Need to set example that this is not acceptable • Need to assess fines Williams • Agrees 100% • Word must go out and people will be held accountable Engelbourg • Are other avenues • Need to continue fines until plans are submitted Williams • Sconset case remediation was very high Engelbourg • Does believe everything will be costly
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	Misurelli • There was no grubbing, does not want to go to criminal intent and is supportive of fines Engelbourg • Describes fine process Schafer • Questions fining process Briane • Questioned limit of fines Engelbourg • Max per day under bylaw is \$300 Plandowski • Would like to see plan before issuing a fining schedule Turcotte • on board with \$300 daily fine Wood • Massive cost of plan in Sconset • This will be costly as well • Explains how he's seen fines act when property owners don't want to play • The owner is on board, and they will work as fast as they can • Seems excessive for fines to be placed based on delays they can't control • Table fines Engelbourg • Hears what he's saying • Wood clients do not have control over delays, but clients had control over the cutting Turcotte • Work done is well over the fine of \$300 a day • Won't be the same and won't budge Engelbourg • Public meeting not hearing, given the nature he is willing to take public comment but if its repetitive he will cut off Wood • With respect to one small incursion, they are taking full responsibility for incursions and will see it in restoration plan Dan Bailey - representative of two abutters • Trespass will be dealt with separately • Encourages commission to do a very thorough restoration plan • No way to place a mature tree • Wants commission to restore restoration as quickly as possible • Acceleration of restoration • Wants an NOI • Wants this to be referred to DEP Schafer • Questioned path or NOI Engelbourg • Has potential to delay Madden • Intent is to file within two weeks Dell 'Erba • Wants an NOI Misurelli
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	• Enforcement order • Questioned if the owner has a contractor or n Madden • Don't have an immediate answer but will get one in two weeks Williams • Can he proceed with enforcement while getting NOI Engelbourg • Up to commission Williams • Wants both Dell “Erba • Could require continued work and NOI Plandowski • Favors Enforcement route and fines should be based on plan Bailey • We have the same interest • Two step approach Turcotte • Could get a dynamite plan but would not cover what was lost for years • More about points • Brian will do a great job but won't be able to replace what was lost Engelbourg • This is a unique site • Difficult growing conditions • Very bad violation • He is arcane about the process • Believes their benefits for having an NOI Williams • Agrees but wants to keep them going under enforcement while keeping NOI Wood • Suggests hybrid • 21 days to issue OOC and 10 business days and it could be appealed which weighs heavily against work before the spring • Move ahead with work under EO and after the fact NOI Engelbourg • Acknowledges Woods work with restoration in Mass Allison Hudson – resident in Wauwinet • Questioned why such an egregious transgression wouldn't be met with full force Engelbourg • Certain level of comparison Hudson • Wasn't cut to sand because there's water Engelbourg • Explains the seriousness of the DEP and what it would entail Willa Arsenault – NLWC • Wants an NOI Charity Benz – no connection but concerned • Suggests giving property owners information if they are on wetlands and this also happens for new owners Tony Cahill – president of Wauwinet owners association • Questioned how commissions deal with protected and endangered species • Homeowners has current application and wants it revoked/withheld
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	Engelbourg • Won't withhold permit • Can require NOI for survey Bruce Perry – no relation but relation with Nantucket • Agrees with Wood • NOI has a longer timeframe to allow restoration • Egregious wetland violation that people need to pay attention to • Wants to count the trees cut Emmy Kilvert – care for island • Wants to know if commission can fine individual owner or landscaper Engelbourg • yes, to all Kilvert • Are they required to provide name of individual who did work Engelbourg • Yes Cahill • Wants to find out why homeowners did so Engelbourg • Not within scope • Need to decide enforcement versus NOI, Fines, Formal letter to DEP Schafer • Wants hybrid enforcement order and issue fines to keep hammer and wants to notify DEP Misurelli • Agrees with John Engelbourg • Odd process • Explains doing both processes Misurelli • Worried about appeals ext. To hold this project up Turcotte • In agreement as well as an NOI Williams • Agrees Plandowski • Disagrees, wants enforcement Schafer • Seems remediation plan will be basis of NOI Engelbourg • Can write a letter to DEP
Motion	Motion to write letter to DEP (Made by Williams) (Seconded by: Schafer)
Vote	Carries://6:1 Engelbourg, Braine, Misurelli, Schafer, Williams (aye) Plandowski (no)
Discussion cont.	Dell 'Erba • Will draft letter Engelbourg • Questioned first date violation was recorded Dell 'Erba • January 27th Engelbourg • Needs to make decisions about finding with earliest date January 27th

	All commissioners but Joe wants to be fine. All Commissioners want to start with fine of January 27th Williams • Start 27th and stop now Schafer • Start 27th and continue till done Plandowski • It's \$19,000 Turcotte • It's just over \$10,00 but is in support Plandowski • It's \$11,400 if stopped today Turcotte • Open to discussing when to stop but doesn't want to stop today Engelbourg • In favor of having until the restoration is complete Misurelli • Fine with fines until they see restoration plans Dell 'Erba • 1/27 date he is comfortable with, February the is the date Wood • Wants to point out that they are here tonight because that's the date they gave so fining now and not two weeks ago when they could have appeared is wrong Engelbourg • Understands point Turcotte • Also understands but it's getting as close to the date that the trees were cut down Plandowski • Wood made the case he was making Engelbourg • Hears all points and fines aren't really the angle Williams • Has to fine them • Restoration doesn't absolve what they did Engelbourg • Use earliest possible date violation occurred Dell 'Erba • May be wise to pick February 6th because it's on an official document • Tries to give people as much time as they can to get council Schafer • How about go from February 6th to March 6th and reassess when they present plan *motion* Turcotte • Wants fines to continue Misurelli • Thinks they should wait till they have plan Multiple members agree with Turcotte
Motion	Motion to start fines on February 6 th and continue until owners produce a restoration plan (Made by: Turcotte) (Seconded by: Braine)
Vote	Carried//6-1 Engelbourg, Briane, Schafer, Turcotte, Williams, Misurelli (aye) Plandowski (no)

Discussion Cont.	Engelbourg • Now need to amend enforcement order Williams • Questions process Engelbourg • Explains • Need motion to require restoration plan and
Motion	Motion to amend enforcement order to require restoration plan by March 20 th or to submit a letter if not (Made by Schafer) (Seconded by Williams)
Vote	Carried://7:0 Engelbourg, Braine, Misurelli, Williams, Plandowski, Schafer, Turcotte (aye)
Motion	Motion to allow violators to submit an NOI for the remediation for the enforcement
Vote	Carried://6:1 Engelbourg, Braine, Misurelli, Williams, Schafer, Turcotte (aye) Plandowski (no)
Discussion Cont.	Engelbourg • Has satisfied everything for this meeting Dell Erba • Agreed Engelbourg • Thanks everyone for coming tonight

6. Staff Reports

Discussion:	Dell Erba • Thank you all, we have a bunch of work, but we are making good moves
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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