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CONSERVATION COMMISSION MINUTES

131 Pleasant Street

Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Thursday, April 3, 2025 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

<https://youtube.com/live/SU9EaPdlyxA>

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

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

Staff in attendance: Jeff Carlson, Natural Resources Director, Will Dell'Erba, Conservation Agent
 Attending Members: Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams
 Absent Members: -
 Members Left Early: -

I. Acceptance of the Agenda

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

II. Public Comment

Chair Engelbourg called for public comment

Public Comment (00:03:50)	Burton Balkind: Asks Commission if there will be an opportunity to comment on item 1C- Sconset Beach Preservation Fund: 59-83 Baxter Road (various) SE48-3759. Engelbourg: The filing has been continued so the option to comment on that will be April 17 th .
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III. Public Hearing

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

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

Action:	CONTINUED UNTIL APRIL 17, 2025
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B. Notice of Intent- No Waiver Required

1. Nantucket Islands Land Bank- Smooth Hummocks Way (82-30) SE48-3893

Action:	CONTINUED UNTIL APRIL 17, 2025
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2. Purcell- 32 Dukes Road (56-188) SE48-3904

Action:	CONTINUED UNTIL MAY 8, 2025
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C. Notice of Intent- Waiver Required: Pre-January 1st Submissions

1. Sconset Beach Preservation Fund- 59-83 Baxter Road (various) SE48-3759

Action:	CONTINUED UNTIL APRIL 17, 2025
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2. The Summer House of Nantucket Realty Trust- 10 & 16 Ocean Avenue (73.2.4-15, 23, & 21) SE48-3824

Action:	CONTINUED UNTIL APRIL 17, 2025
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3. Segalini Properties, LLC- 8 Bassett Road (26-38) SE48-3851

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

Representatives:	Mark Rits, Site Design Engineering, presented the item and responded to the Commissioners' questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:04:49))	Rits - Describes revised plan of elevating the structure and removing the pool from the two-foot ground separation. The project no longer requires a waiver. Williams - Asks Rits about the waiver as it seems the project will need to add fill to raise the grade. Engelbourg - I would rather approve a waiver than bring in fill to raise the whole lot. - The applicates have decided to move forward with this new plan and I guess we could request they revise it again if needed.
Staff Recommendation:	All necessary items have been received in order to close
Motion:	Motion to close. (Made by: Schafer) (Seconded by: Braine)
Vote:	Carried://4:1 Engelbourg, Braine, Plandowski, Schafer (aye); Williams (abstain); Misurelli, Turcotte(recused)

4. West Ashored LLC- 62 Wanoma Way (92-16) SE48-3869

Action:	CONTINUED UNTIL APRIL 17, 2025
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D. Notice of Intent- Waiver Required

1.. *Craig C. Carreau Revocable Trust- 8 Ames Avenue (60.2.4-56) SE48-3908

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Mark Rits, Site Design Engineering, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:09:30)	Rits - Describes the proposed project to construct a one-bedroom IIA drip system to replace the conventional system, which has been removed as far from the wetland as possible. Dell'Erba - Believe that NHESP had a requirement and asks for an update from Rits. Rits - We're placing the septic system within an altered and landscaped portion of the property that's in habitat and it's a temporary subsurface disturbance. Believes Heritage has an exception for those, but we sent it to them anyway. Engelbourg - They do have an exception for that but if you didn't hear back from them, we should probably wait for the response.
Action:	CONTINUED UNTIL APRIL 17, 2025

E. Amended Orders of Conditions- No Waiver Required: Pre-January 1st Submissions (none)

F. Amended Orders of Conditions- Waiver Required: January 1st Submissions

1. 36 Tennessee LLC- 36 Tennessee Avenue (59.4-79) SE48-3807

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Paul Santos, Nantucket Surveyors Inc., presented the item.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:12:40)	Santos - The Commission had issued an OOC for the upgrade of an existing septic system and construction of a garage. - The applicant is seeking permission to relocate a portion and demolish the remainder of the existing dwelling thereby constructing a new dwelling with the same footprint. - The septic system would be modified slightly to accommodate that move. Schafer - The footprint looks bigger than the original, asks Santos if that's the case. Santos - There's such an awkward size to that existing structure that it looks different, but it's the same.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Misurelli (Seconded by: Williams))
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

G. Amended Orders of Conditions- Waiver Required

1. *2 Easton Street, LLC- 2 & 6 Easton Street (42.1-4.8 & 4.9) SE48-3613

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	Arthur Gasbarro, presented the item and responded to Commissioners questions
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:34:28)	Gasbarro - The project was permitted to replace an existing timber bulkhead, and the pile supported the pier. - There was a small section at the end of the existing bulkhead that wasn't replaced due to not being shown on the plan. - There is essentially 37 feet from where the work was approved to the property line that will need to be replaced. Engelbourg - Ask Gasbarro if the portion of the bulkhead is an FRP or timber bulkhead that was replaced. Gasbarro - Confirms that it's an FRP with a timber cap. We're not making any changes.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Schafer) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte (aye); Williams (recused)

IV. Public Meeting

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

B. Orders of Conditions/Amended Orders of Conditions- No Waiver Required (none)

C. Orders of Conditions/ Amended Orders of Conditions- Waiver Required: Pre-January 1st Submissions

1. Segalini Properties, LLC- 8 Bassett Road (26-38) SE48-3851

Sitting:	Engelbourg, Braine, Plandowski, Schafer and Williams
Recused:	Misurelli, Turcotte
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:38:19)	Dell’Erba presents the item Engelbourg - Requests to remove the waiver request due to the updated plan. Dell’Erba adds conditions 26 & 27, which include the condition for planting native species and planting with no agricultural chemicals or fertilizer.
Motion:	Motion to approve the OOC as amended (Made by: Schafer) (Seconded by: Williams)
Vote:	Carried://5:0 Engelbourg, Braine, Plandowski, Schafer, and Williams (aye) Misurelli, Turcotte (recused)

2. 36 Tennessee Avenue (59.4-79) SE48-3807

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams
Recused:	-
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Discussion: (00:43:16)	Dell’Erba presents the item Schafer - Requests to reword the permit overview section to include “construct a new dwelling” Engelbourg - Requests to add Conditions 20-22: Lighting, fertilizer and landscaping conditions
Motion:	Motion to approve OOC as amended (Made by: Williams) (Seconded by: Schafer)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

D. Orders of Conditions/ Amended Orders of Conditions- Waiver Required (none)

1. 2 Easton Street, LLC- 2 & 6 Easton Street (42.1.4- 8 & 4.9) SE48-3613

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:48:38)	Dell’Erba presents the item Engelbourg - Requests to change the wording on the permit overview with details of “a replacement with timber capped FRP sheet”
Motion:	Motion to approve the OOC as amended (Made by: Misurelli) (Seconded by: Braine)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte (aye); Williams (recused)

E. Request for Determination of Applicability- Delineation Only (none)

F. Request for Determination of Applicability- Work Requested (none)

G. Minor Modifications

1. Turk Family LLC- 15 Marsh Hawk Lane (56-113.6) SE48-3766

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Paul Santos, Nantucket Surveyors, presented the item.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:52:40)	Santos - The modification includes a relocation of a shed and pool equipment outside of the 50-foot setback.
Motion:	Motion to approve the Minor Modifications (Made by: Williams) (Seconded by: Braine)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

H. Certificate of Compliance

1. Nantucket Theatre Project LLC- 5 North Water Street (42.4.2-88) SE48-2736

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams
Recused:	-
Representatives:	Paul Santos, Nantucket Surveyors, presented the item.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:54:46)	Santos reviews the OOC, which was issued in 2015 and completed in 2017.
Motion:	Motion to approve the issuance of the COC (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

I. Extension Requests (none)

J. Other Business

1. Approval of Minutes 9/5/2024, 11/14/2024, 11/21/2024, 12/04/2024, 12/05/2024, 12/19/2024

Discussion: (00:57:30)	Turcotte requests to abstain from the approval for 9/5/2024
Motion:	Motion to approve the Minutes for 9/5/2024 (Made by: Misurelli) (Seconded by: Williams)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, and Williams (aye) Turcotte (abstain)

Motion:	Motion to approve the Minutes for 11/14/2024, 11/21/2024, 12/04/2024, 12/05/2024, and 12/19/2024 (Made by: Schafer) (Seconded by: Misurelli)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, and Williams (aye); Turcotte (abstain)

2. Monitoring Reports - None

3. Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC:	Braine - No report.
CPC:	Braine - No report
NP&EDC:	Misurelli - Met on March 24 th and mostly went over transportation planning reports and a heavy focus on the Tom Nevers bike path.
Harbor Plan	Williams

	- Making headway but nothing new.
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4. Commissioner's Comments

Discussion: (01:00:52)	No comments from Commissioners
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5. Enforcement Actions

- 14 Plover Lane

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams
Representatives:	Brian Madden, LEC Environmental Consultants & Glen Wood, Rubin and Rudman
Public Comment:	Daniel Bailey & Scott Smyers Oxford Associates, representing abutters, Burton Balkind
Discussion: (01:01:00)	Engelbourg gave an update that all the Commissioners and representatives of the violator had made a site visit on Tuesday, April 1st. Dell'Erba - Has requested legal counsel to be present for any discussion on the fining structure. Their first available scheduled meeting that they can attend is Thursday, May 8th. Engelbourg - There is a legal memo from counsel in the packet and agrees that legal representation should be physically present to discuss any potential fines. - We should discuss the restoration plan and the proceeding of filing a Notice of Intent. Schafer - Thought the fines wouldn't be applicable in this case due to the remediation that the applicant has proposed. Engelbourg requests an update from the representatives of the violator Madden - Reviews the updates submitted to the restoration plan and restoration plan. - The plan reflects a 6-foot-wide access corridor off Wauwinet Road which would be the primary access delivery point for planting of buffer zone and wetland planting area depicted on the plans. - Once the plantings are installed, this temporary access path will be replanted. - The applicant is still in dialogue with the abutters on the restoration of the neighbor's property and has no details on that at this time. - We're looking to move on with the planting on site as quickly as possible. - There are still long-term monitoring components and invasive species management aspects that can be worked out through the Notice of Intent. Schafer - If something doesn't make it, is there going to be an ongoing replacement plan? Madden - We are implementing some replacement procedures. If there is dieback, we'll need to replace any plants through the monitoring program. Misurelli

	- If we were to approve this restoration plan today and decide that the plantings are not adequate, do we have any recourse to request more planting to satisfy the restoration?
Engelbourg	
	- As long as the Enforcement Order stays open, we have recourse, but we are requiring a Notice of Intent to be filed, which is going to give us even more ability to require monitoring.
Misurelli	
	- I'm uneasy about if we have enough plants. Not saying that we don't but just want to be sure we can weigh in from time to time.
Williams	
	- Thinks there will be more planting typically on the roadside and along with buffer zones between the neighbors. - Asks what date the Notice of Intent should be expected to come in, shouldn't be a year from now.
Engelbourg	
	- Thinks 30-60 days should be a standard time frame. We'll give them a reasonable amount of time.
Wood	
	- The Notice of Intent can surely come in quickly. It wouldn't be something that would be delayed. - We continue to work with the neighbors to consider their comments and get their concerns resolved. - Reiterate thoughts on comments that were made at last meeting in terms of removing the pool and a conservation restriction out in Wauwinet.
Turcotte	
	- Still thinks there is merit to the conservation restriction. It would be much easier to keep a record of what's going on, on the property.
Engelbourg	
	- We have the authority to request that when the Notice of Intent is submitted as well as the idea of a deed restriction. - An observation from the site visit- In reviewing the lighting that was placed on the dwelling, 100% that was installed is non-compliant with Chapter 102 bylaw. - . I think it's important to have clarity on the amount of cutting that was done on the neighboring property. - There are several invasive species on site and we're going to need a much more specific treatment protocol when a Notice of Intent is submitted.
Misurelli	
	- We should really think about what sort of deer protection can be offered because it's going to be a pain going forward if things need to be replaced over time.
Smyers	
	- Represents abutters at 12 and 16 Plover Lane and they have requested the survey data from their individual properties. - Describes findings from associates made on their site visit. - Believes there was much more impact on neighboring properties and recommends Commission focus on making sure the information is accurate.
Bailey	
	- We are trying to work cooperatively and would like to see some larger trees on the property line of abutters.

	- Since the day of the Enforcement Order, the violators have made little attempt to address the lighting restrictions, debris removal, and deer fencing. - We encourage the Commission to make sure there's a monitorable restoration plan submitted when a Notice of Intent is submitted. - The Commission has authority to revoke Orders of Conditions for non-compliance or in the event of new information. Misurelli - In support of providing sizable plants, my previous comment came from the concern about needing machinery. Engelbourg - We know that in nature, the more biodiverse systems are the ones that are more ecologically resilient. Having variability in species and size is going to be helpful. Dell'Erba - In the plan there was a range of 1 and a half to 3in caliber trees with a 3in caliber to be about a 12-16-foot-tall tree. It's a pretty big tree and just want everyone to be mindful to not plant anything that's ridiculously large. Balkind - I know the Wauwinet bike path is planned on that side of the road. I'm not sure how far it's going to go onto the property. Is there any consideration or in your purview to take this into consideration in the remediation plan. Engelbourg - It's not within our purview and we have to issue conditions on how they stand today and not what may be happening in the future. - If we're comfortable with the restoration plan, we need to amend the Enforcement Order to consent to that plan and allow them to start work on that plan. - We need to set a timeline for requiring a Notice of Intent
Motion:	Motion to amend the Enforcement Order to allow the violator to move forward with the restoration plan as submitted. (Made by: Williams) (Seconded by: Turcotte)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

Discussion: (01:48:40)	Engelbourg opens up the discussion on the specific calendar date or specific number of days to which the applicant must submit a Notice of Intent. Schafer recommends 30 days.
Motion:	Motion to require the violator to submit a Notice of Intent within 30 days (Made by: Turcotte) (Seconded by: Williams)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

6. Administrator/Staff Reports

Discussion:	Dell'Erba thought it was a great time having everyone at a site visit on Tuesday and would love to see it again.
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Adjournment:

Motion:	Motion to adjourn at 6:51pm. (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

Submitted by:
Lisa Graves