



Meeting Minutes - Edgartown Conservation Commission
April 5, 2023 (4 pm)

Commissioners present: Peter Vincent (Chair), Max Gibbs, Geoff Kontje, Lil Province, Robert Avakian, Jeff Carlson

Commissioners Absent: Christine Brown

Staff: Jane Varkonda (Agent), Kara Shemeth (Admin)

Public in attendance: Doug Hoehn, Sam Sherman, Doug Cooper, Bill Potter, John Prego, Judy Gaylord, R+D Studio (Travis Ritchie), Darran Ruebens, Reid Silva, Michael Barclay, Norman, Sofya Nadelstein, Chris Alley,

Public Hearing – LOCAL NOI

Applicant: **Susan Plaine**

Representative: Sherman Associates

Address: 50 North Neck Road (AP 18-34.1)

Project: Proposed construction of an addition to an existing deck and install a swim spa within the deck additions. All work is located within the Inland Zone of the Coastal District, outside of the 100' WPA buffer but within the 200' local bylaw buffer.

Documents shared: Site photos, site plan, spa specs

Sam Sherman explained that the swim spa is 8'x18' and 5' deep and within the proposed deck addition. They situated the swim spa on the bluff side of the house near some existing decking and outdoor shower and so as not to be visible from the road. Because the swim spa is flush with the deck, it will be no more visible than the deck is from the water. The excavation is 3' deep with a gravel base and a concrete slab.

Commissioner Comment: Asked about water capacity and how often it would need to be filled/ emptied. Sam Sherman noted that it would entail a truck to fill it in the spring and to empty it in the fall. Commissioners asked about the large pine and the applicant confirmed that they had an application in to take out that tree per the new town bylaw.

Public Comment: None

Action: A motion was made, and seconded, to approve the application as presented with standard conditions.

Passed unanimously via roll call vote of members present

Public Hearing – NOI SE20-1690

Applicant: **John & Teresa Prego**

Representative: Doug Hoehn (SBH), Bill Potter (Squash Meadow)

Address: 9 Haystack Lane (AP 12A-50)

Project: Replace existing dwelling with a new dwelling, move shed, minor landscaping and related site activities.

DEP Comments: **None**

Documents shared: aerial, site plan, site photo from water, building plans/ elevations

Doug Hoeh reviewed the plans, he noted that the new dwelling is slightly wider, the wall on the resource side of the structure is being held and the additional square footage is away from the wetlands. Doug noted that due to the coastal district and the lot being pre-existing/non-conforming, they will be presenting to the ZBA as well. The new structure will utilize the existing septic system (FAST).

Commissioner Comment: Questions were asked about the foundation, Bill Potter noted that it was a 4' crawl and any flood openings will be designed and installed appropriately.

Public Comment: Judy Gaylord (abutter) spoke in favor of the proposal

Action: A motion was made, and seconded, to approve the application as presented with standard conditions.

Passed unanimously via roll call vote of members present

Public Hearing – NOI SE20-1691

Applicant: **Flying O**

Representative: Doug Hoehn (SBH)

Address: 33 Boldwater Road (AP 43-3.39)

Project: Create and maintain view channels

DEP Comments:

The Notice of Intent (NOI) proposes the alteration of 20,000 square feet of BVW without any mitigation, 25,000 square feet of alteration of land subject to coastal storm flowage, all for the creation of view channels. There is no narrative in NOI. There is no regulatory mechanism that would allow such an alteration to occur. The limited information submitted does not demonstrate compliance with any of the regulatory performance standards in 310 CMR 10.00. The conservation commission should deny the project as proposed.

Documents shared: aerial

Doug reviewed the previous filings and explained that the view channels are existing and the applicant is selling the house and wants to make sure all their permits are in place prior to doing so. He noted that the view channels are selectively trimmed and done within the usual confines of view channels and are not wide open.

Commissioner Comment: Commissioners asked if the view channel cutting went onto the abutting property, Doug noted that once you get out to the property line the vegetation is so low that there is no need to trim.

Public Comment: None

Action: A motion was made, and seconded, to continue the hearing to 6/14/23 for a site visit.

Passed unanimously via roll call vote of members present

Public Hearing – NOI No DEP

Applicant: **Town of Edgartown – Shellfish Dept.**

Representative: Doug Hoehn (SBH)

Address: 210 Herring Creek Road (AP 53-15 and 52-2)

Project: Phragmite removal and maintenance

Doug Hoehn requested a continuance as MA DCR has not approved the project. It was noted how difficult it has been to get DCR onboard with projects on their properties.

Action: A motion was made, and seconded, to continue indefinitely.

Passed unanimously via roll call vote of members present

Request for Determination

Applicant: **Carol Grant**

Representative: Doug Cooper (CES)

Address: 90 17th St N (AP 12A-31)

Project: upgrade of a failed cesspool in the water table with an Advanced Treatment MicroFAST tank and BioDifusser leaching bed

Documents shared:

Doug Cooper explained the site which has a small seasonal cabin with a cesspool that is in the water table. The new FAST system will be 94' from a BVW on the Blvd. The new system will be no closer to the resource but will be shallower than the existing cesspool. No expansion of the building is proposed, the site is level with no need for siltation, work should take 2-3 days and the site will be stabilized and reseeded once work is done.

Commissioner Comment: Noted that this was an improvement

Public Comment: None

Action: A motion was made, and seconded, to find a negative determination.
Passed unanimously via roll call vote of members present

Continued Public Hearings

Continued **Public Hearing** – NOI **SE20-1687**

Applicant: **MVY Home LLC**

Representative: Reid Silva (VLS)

Address: 17 Garden Cove Road (AP 53-8.1)

Project: Seeking permission to construct and maintain an addition to an existing dwelling, a pool house, septic tie in and associate landscaping within the flood zone.

Continued from 5/10 for site visit

Eligible Commissioners: Peter, Lil, Geoff, Jeff, Bob, Max

DEP Comments: None

Documents shared: revised site plan

Reid reviewed the site plan noting that the existing pool shed will be replaced with a pool house, a mud room addition on the main house and a dry laid patio are proposed. The view channels shown on the initial plan have been removed as the vegetation is so low that they are not necessary. Siltation/ construction fencing has been added to the plan. At the site visit there were questions regarding a significant tree near the proposed pool house and Reid noted that every effort is being taken to preserve the tree, the pool house has a mono-slab or shallow slab to help protect the roots.

Commissioner Comment: Commissioners asked if the dry laid patio was permeable as it will affect another significant tree's root system. The applicant noted that the roots will not be disturbed and the patio will be loosely laid and the goal for this area is to preserve this tree and the one by the pool house. It was noted that the existing stairs have been previously properly permitted.

Commissioner site visit report: The two trees being in question were noted as needing protection and Commissioners felt the discussion today provided adequate protection.

Public Comment: None

Action: A motion was made, and seconded, to approve the application as presented with standard conditions and the following:

- Actions are to be taken to ensure the healthy survival of the two trees (by the proposed pool house and in the proposed patio).

Passed unanimously via roll call vote of members present

Continued **Public Hearing** - Notice of Intent **SE20-1679**

Applicant: **The Selby Family 2012 Trust**

Address: 12 Swan Neck Road (AP 43-3.23)

Representative: Doug Hoehn (SBH)

Project: Construction of a guest house, installation of a new septic system, landscaping and related site activities

Continued from 3/22/23 Eligible commissioners: Peter, Lil, Geoff, Jeff, Bob, Max

Documents shared: site plan

Doug Hoehn shared an updated site plan which showed the additional wetlands as flagged by Doug Cooper. The areas of clearing are also shown on the plan. Richard Johnson will be conducting a wildlife/ vegetation inventory.

The architect requested the Commission approve the guest house and allow it to proceed prior to the inventory being complete. It was noted that it was not feasible to proceed with issuing an Order while a violation of this magnitude is unresolved.

Commissioner Comment: Commissioners noted the importance of not ruling until the violations have been dealt with.

Public Comment: None

Action: A motion was made, and seconded, to continue to 6/14/23 for reception of the plant inventory and mitigation plan.

Passed unanimously via roll call vote of members present

Continued **Public Hearing** - Notice of Intent **SE20-1686**

Applicant: **Kruppers, LLC**

Address: 5 Briggs Road (AP 27-9.22)

Representative: Doug Hoehn (SBH)

Project: Construction of a dwelling, pool, driveway, portion of a septic system, waterline, view channels, landscaping and related site activities within the 100' buffer to the 100 year flood and view channels in wetlands

Continued from 5/10/23 Eligible commissioners: Peter, Geoff, Jeff, Bob, Max

Note: Lil Province recused herself

Documents shared: site plan

Doug Hoehn reviewed the site and showed an updated plan which included the path and wooden walkway. Doug requested that the view channels be removed from the application and the Commissioners proceed with review of the house. It was noted that, similar to the previous application, enforcement of these violations is difficult.

Sofya Nadelstein spoke of the history of their property and how this issue was recently brought to light and they had no prior knowledge of this violation. She noted that they had purchased the property 2 years ago and haven't done anything to the property since.

The Agent noted that there could be temporary measures taken to soften the view from the water. Plantings could be installed within the channel between the grass road and the resource area that would fill the space and solve the current issue with the clearing of the view channel.

It was suggested by staff that the Order not be released until the plantings had been installed and reviewed by the Agent. This was amenable to both the applicant and the Commission giving the applicant approval contingent upon the resolution of the view channel issue.

Commissioner Comment: Commissioners requested that any CO from the building dept. be tied to the resolution of the view channel issue.

Public Comment: None

Action: A motion was made, and seconded, to approve the application with standard conditions and the following:

- The applicant agrees to install several plantings, as approved by the Agent in the field, prior to the Order being released
- The view channels will be reviewed at a later date and no cutting is to be done in the view channels until there has been a plan or amended OC requested.

Passed unanimously via roll call vote of eligible members present

Continued **Public Hearing** - Notice of Intent **SE20-1685**

Applicant: **Eastern Wall**

Address: 58 Oyster Watcha Road (AP 41-1.1)

Representative: Chris Alley (SBH)

Project: Proposed construction of additions to an existing single family dwelling and associated site work. Construction zone impacts and restoration within the buffer zone of a bordering vegetated wetland.

Continued from 4/26/23 for a site visit

Eligible commissioners: ALL

DEP Comments: None

Documents shared: site plan w/ LOW shown, building elevations (existing and proposed)

Chris Alley reviewed the application (additions etc) and resource areas and noted that the proposed activities are outside the Ponds district Zone 1 but are within Zone 2. As Commissioners had requested, the limit of work had been adjusted to fall along the 100' setback line from the wetlands. He noted that a site visit had taken place earlier in the day and that the construction access will all be outside the buffer.

Michael Barclay noted that there is 100 sq ft more glass in the proposed additions than what is currently there.

Commissioner site visit report: Commissioners noted that this is a substantial addition but given that it is replacing a glass structure, the light impact will be less than the current impact.

Commissioner Comment: Commissioners asked if any trees needed to be removed for this Michael Barclay noted that there is one tree that may require limbing but none will be cut.

Public Comment: None

Action: A motion was made, and seconded, to approve the application as presented with standard conditions.

Passed unanimously via roll call vote of eligible members present

*Jeff Carlson abstained

Action: A motion was made, and seconded, to approve the 3/15/23 minutes as written.

Passed unanimously via roll call vote of eligible members present

Action: A motion was made, and seconded, to approve the 3/22/23 minutes as written.

Passed unanimously via roll call vote of eligible members present

The Agent noted that we had received NHESP approval for the additional Norton Point access.

Legal Updates:

DEP issued a superseding conditions for the New England Wind 1 Connector denial. It was noted that they had also sued the Commission under the local bylaw and that Town did not plan on fighting the suit. Commissioners asked that staff look into the required reports from the initial project and ask for similar reports for the new project. It was noted that the timing of the cable laying coordinated with the Northern Right Whale migration

Karp: The neighbors had appealed the DEP's superseding Order of Conditions which had upheld the Commission's decision.

With nothing further to discuss the meeting was adjourned at approximately 5:50 PM