

Town of Nahant
Conservation Commission
Meeting Minutes
Wednesday, Aug 17, 2022

Attendance: Henry Hall, Mark Patek, Eden Reiner, Kristin Kent, Colleen Collins, Mark Patek, Skylar Tibbits, and Colleen Collins, Tom Famulari arrived at 7:40 pm

Commission Chair Kristin Kent opened the Meeting of the Conservation Commission at 7:02 PM.

1. Notice of Intent, 151 Bass Point Rd- Request demolition of the existing residence and construct a single family home within Bordering Land Subject to Flooding, Coastal Bank, and Buffer Zone. Homeowner will build home to FEMA specifications, reports the new home is within the footprint of the home currently there, set back line will remain as is. The home will be build on cement pilings, existing foundation will be back filled with gravel that will be porous, allowing water to flow through “essentially creating a dry well.” Questions posed by the public:

- Bob Bennett, 134 Bass Pt Rd- Expressed concern with the house on stilts, feels it will allow the ocean to come through and “flood the whole area.” The Commission responded that raising the house is complying with FEMA regulations. Bennett asked if the elevation of the land will stay the same and the Owners responded in the affirmative. Also stated there is no intention to raise the seawall at this time.
- Jean Yonkers, Marc Macchi, 160 Bass Pt. Rd- Want to know if the trees are going to stay and the Owners of 151 answered in the affirmative

No DEP file# has been issued to date. DEP sent an email to the owners requesting an updated site plan before they will issue a file # and the Owners report they plan to bring the updated site plan to DEP in Wilmington tomorrow. Chairwoman Kent notified the Owners that the Commission cannot vote to issue a permit until a DEP # is issued. Based on tonight’s discussion she feels the order of conditions will include: trees stay, use erosion controls, comply with all FEMA regulations, and there will be no alteration in the site elevations. A continuance was scheduled for 8/31 pm, Eden Reiner made a motion for the continuance, Mark Patek seconded, passes unanimously.

2. Notice of Intent for Nahant Bay Eelgrass harvesting- Posted publicly today, no DEP file# issued yet

4. Request to Amend Order of Conditions, 4 White Way (047-0593) Request to change mitigation measures for work with Bordering Land Subject to Flooding- Engineer of the Town of Everett made a site visit and recommended a swale to collect driveway and additional street water, swale will direct water to drain to rear of 64 Willow Rd property owned by Steve Arzillo, who stated; “he’ll be removing fill that’s in the corner of his yard which will allow water to naturally drain into my yard.” Owner David Seetaram submitted arial photo showing where the trench (with crushed stone) will collect water and drain to the swale. Engineer recommends the Town of Nahant put in another catch basin at the base of Pond St to divert to the golf course. Questions from the Commissioners:

- Want to know if shrubbery will be removed? Owner states they will have to come out because it will be continuously wet where the swale is constructed
- Chairwoman Kent recommends apron at the end of the driveway
- Eden Reiner asked if this is a trench filled with crushed stone, has concern that the water will overwhelm the crushed stone
- Mark Patek asks how the swale will be maintained, the Chairwoman responded that if the swale is a perpetual condition it must be maintained
- Commission members voiced support for the proposal, especially given agreement from the abutter (Arzillo)
- Continuance issued for 8/31 interim meeting, Eden moved to continue and Mark seconded, motion passed unanimously 6-0 (Tom Famulari abstained)

5. Continued Notice of Intent 12 Spouting Horn Rd (047-0595)- Request to install a pool, paver patios, and a paver driveway within buffer zone to Coastal Bank, and aluminum beach access stairs within Coastal Bank. Lead Engineer Tony Capachietti removed the steel sheet piling option. They plan to create a 5 ft wide by 2 ft deep swale to drain and spread run off from the abutter (Paul and Julie Ferragamo) across the coastal bank which will have vegetation and jutte mats to spread the run off and improve infiltration above the bank providing “a more durable form of erosion control.” Landscaping plans also propose beach grass. The Owner’s Engineer states that “concerns of the abutter of drainage flooding the pool are unfounded.” Other mitigations include: the aluminum stairs will be removal, and the patio will be replaced with pea stone to prevent erosion. The Abutter’s Engineer responded: “You can work on a coastal bank but you cannot effect wave action in a velocity zone.” Commissioner Kent feels Abutter’s Engineer misinterpreted Nahant Wetland Bylaw which allows work 100 ft from Coastal Storm flowage, it is not related to Coastal bank.

Concerns raised by the Commission:

- Will removal of the aluminum stairs cause more damage? Engineer replied, “they come in sections”
- Mark Patek asked about 4ft high post and rail fence potentially impacting the easement, and Peter White, Landscape Architect for the Owners replied that “an access easement is needed.”

Concerns raised by the Public and Opposing Abutters:

- Attorney Jason Panos, 246 Andover St, Peabody, MA speaking on behalf of Paul and Julie Ferragamo stated: “We remain concerned about the over intensification of the use of the property.” He also pointed out that this is the Applicant’s NOI and yet he is not present. He cited “information is lacking” regarding to what degree the patio and stairs will erode the coastal bank.” And he would like input from the Office of Coastal Zone Management based on this projects proximity to the shoreline because it is not legal to drain chlorinated pool water into a resource area. Tony Capachietti stated that pool drainage will be dechlorinated before discharge and will be diverted across the top of the coastal bank.
- The 2 opposing Engineers then engaged in a rapid fire exchange with Tony standing firm that the work is not part of the coastal bank, and Attny Panos countering for Richard Salvo, P.E who was not present, “wouldn’t the whole anchoring system be considered an engineering structure?”

Concerns raised by Commission:

- Recommends hand augers be used to drill the screws----25 going down, 25 going across---- from the top down as heavy machinery can damage the coastal bank. Attny Panos asked "Where is the information that it's not going to effect the Coastal Bank?"
- Commissioner Chair Kent agrees it is an over intensification of the use of this property
- Eden Reiner asked "What is the distance between the edge of the house and the coastal bank? Engineer Capachietti: "15 feet"
- Colleen asked "Is the work (to place the stairs) irreparably harming the Coastal bank?" Peter White responded "this is the least disruptive system for anchoring docks and piers"
- Mark; "What happens if there's a crack and it's not going to hold?" with Kristen noting significant erosion already happening on the northerly end of the retaining wall. Tony showed photos of 1 ½ inch diameter "minimally intrusive" screws that will be capped and Peter stated "you drive these into the ground until they stop"
- Skylar recommended stairs descend straight which would alleviate the number of anchors and the Property's Engineers responded "I think we can accommodate that."

Public comment continues:

- Attny Panos: "How much of this is being driven into the retaining wall itself? I understand the retaining wall is > 60 yrs old and has the integrity of the wall been interrogated?". Principal Engineer responded "that wall has been evaluated."

Discussion ensued among Commissioners about issuing an Order of Conditions. Discussion was around 2 issues: majority of the Commission members were "ok with the pool and the patio" (with changes recommended at the site visit), but the biggest concern remained for the Coastal Bank and the proposed stairs.

Skylar moved to issue an Order of Conditions which was seconded by Henry Hall. The motion passed 5-2.

Proposed Order of Conditions: helical anchors should be installed by hand, erosion control, mandated installation and removal dates, specify storage of stairs.

6. Continued Notice of Intent 430 Nahant Road- Request to replace existing seawater intake system and construct a new pumphouse within Land Under Ocean, Land Containing Shellfish, Land Subject to Coastal Storm Flowage and buffer zone (3,200 sq ft of impact to the buffer zone, 800 sq ft of land under the ocean and a utility corridor proposed). Dwight Dunn Epsilon Associates and Rick Galat of Tag Engineering presenting for Northeastern University. Based on a site visit at the end of July, Epsilon provided a written response: (1) approx. 455 sq ft increase in the size of the existing pump house, (2) utility corridor will be straight ("follows the remnant paved drive"), and (3) NEU will re-plant the utility corridor with native plants. Chair also requested discussion about the "parameters of vegetation removal." NEU reports that Arborist Tom Brady came out to see the Cottonwood under stress and made recommendations that NEU would be "willing to pursue" including: fertilizing the tree, and maintenance of the new storm water from being discharged into the depression at the base of the tree. Mark Patek asked if there would be additional irrigation with fresh water? NEU just reiterated that they would follow the Arborist's recommendations.

Public comment went as follows:

- Nahant Lobsterman Bill Mahoney, Willow Rd voiced concern that the outfall will drain to a cove where Lobster larvae mature and states “Northeastern committed to an on site Lobster hatchery of 94,000 stage 4 Lobster larvae per sq ft” in June of 2020, “the hatchery should be completed before any construction begins on the new system. We’d like NEU to commit themselves.” Rebuttal from NEU: Timothy MacKay, AIA states “this is a betterment to the existing system. DMF has reviewed this.” Dwight stated that the new system has a lower intake velocity and is less likely to entrap larvae, states “DMF didn’t have any issues with the project.” Engineer Rick Galat reports the new system has a capture velocity 10X less than the existing system and meets DMF requirements. A dashboard will monitor flow rates and incoming and outgoing temperature of the seawater going into the cove. David Linhart wants the Lobster hatchery in the order of conditions, to which Galat responded that they could design it but it would require 1,000 sq ft of space and “where would this go?”
- Michelle Capano of Ocean St requests “from a citizens perspective” Nahant should have monthly progress updates. NEU’s Tim MacKay responds “seems easy enough.”
- Susan Solomon, 5 Wendall Rd requests that system results be made publicly available now for the public to review in real time in the interest of transparency and states “I hope we have something more than a promise.” Engineer Galat responds that existing system can’t provide that data because it is a combination of storm water and rain water and no sensors are built into the system. Tim McVay reports NEU conducted 2 surveys in 2020 and 2021 of intake and outfall temps and Ecotec did a peer review, to which Solomon countered that the data itself has not been made publicly available. “Why can’t we see the raw data? The town deserves to see that data to make a comparison to the new system.”
- Marilyn Mahoney, Willow Rd recommends NEU speak to the Lobstermen involved. No dialogue with the Nahant Lobstermen for 3 yrs
- Susan Solomon: “I don’t understand the lack of transparency” ...“make data available to support your case.”
- Thomas Costin of Nahant Rd cites a loss of Town trust of Northeastern because they are not being good stewards of the land “I don’t understand why Northeastern didn’t react immediately (to the dying tree).” Tim McKay “As soon as Kristin brought it to our attention we hired an Arborist immediately. Chair Kristin Kent asked “Is there a property manager?”. No response from NEU. Engineer Dwight recommended that outfall be monitored on a regular basis, not just after storms.
- Alice Cort 7 Valley Rd is dismayed that NEU didn’t feel a dying tree needed fresh water (McVay stated that the Arborist didn’t recommend it), she does not feel they are taking care of their property and should repair the harm they have done, feels they have overbuilt the site and are not entitled to “blow off the lobster hatchery” (they should find the requisite space to fulfill their commitment; “move the research and commit to the space needed”)
- Diane Monteith, 20 Seacrest Lane- Requests a single point of contact to improve communication, asks how long the seawater upgrade is expected to take? (Engineers responded that best estimate is 1 yr), what are the number of employees an equipment that will be brought in?, what is your parking plan (or is it just “opportunistic parking” as has been the case to date), and no sensitivity to the neighbors as recently noted with 2 buses sitting idling for a fundraiser for > 1 hr
- Chair notes that the Commission can only host comments that address Wetland issues only, to which Susan Solomon responded that when pursuing the CSI project a vehicle was driven right into the wetlands. She is requesting greater supervision of the site.

Chairperson Kristin Kent recommended the following Order of Conditions: a property manager should be assigned stewardship of the property, weekly progress updates, complete removal of the existing pump house by the beach, no construction vehicle parking in the gravel area, monitor calibration annually, plus all the pre-existing conditions previously submitted.

A motion was made by Eden Reiner to issue the Order of Conditions, the motion was seconded by Skylar Tibbits, and a vote was taken, the motion passes unanimously.

Other Business

Enforcement fines discussion- reviewing fines in the bylaws of Ipswich and Lynn to name a few

Eden Reiner made a motion to adjourn the meeting and Skylar Tibbits seconded, the meeting was adjourned at 10:38 pm

Meeting Minutes prepared by Colleen Collins, Con Com Member