



Meeting Minutes - Chilmark Conservation Commission  
December 7, 2023 at 9 am via Zoom

Commissioners present: Candy Shweder (Chair), Sandy Broyard, Stephen Kass, Sarah Khedouri, Joan Malkin, Gary Mottau, Chris Murphy, Jane Rabe  
Staff: Adam Petkus (building inspector), Carolyn Stoeber  
Public in attendance: Barbara Armstrong, John Armstrong, Gus DuPont, Keith Fenner, John Hastings, Doug Hoehn

The public meeting was called to order at 9:02 am by Candy Shweder.

Request for Determination of Applicability

Applicant: Barbara and John Armstrong

Address: 4 Creek Hill. (AP 27.1-145)

Project: cut an oak tree on bank adjacent to Menemsha Creek

Site visit conducted: November 13, 2023

Documents shared: None

The base of the tree will be left in place.

**Action:** A motion was made, and seconded, to find a negative determination for the cutting of the tree, leaving the base of the tree 3-5 feet above the bank and approve the cutting with the applicable standard conditions and specifically allow a chainsaw to be used. Passed via roll call vote with Gary Mottau not voting due to technical issues.

At 9:06am, because Mr. Mottau was not reachable for a roll call vote, Candy Shweder appointed Jane Rabe as a voting member and opened the public hearing. Mr. Mottau was able to resolve his technical difficulties and participate in the public hearing.

Notice of Intent (SE12-920)

Applicant: John Hastings

Address: 8 Abels Neck Rd (AP 30-67)

Project: Install a 15' x 40' lap pool.

Site visit conducted: December 5, 2023

Documents shared: None

John Hastings presented his request to site a pool within the 100 foot buffer zone to a wetland that's been staked out. Mr. Hastings gave a background of the site, explaining that he and his wife have lived in the house for 20 years and they do not rent their house. Mr. Hastings continued, "The pool is been designed to be as unobtrusive as possible. It's a lap pool, so it's not particularly deep. It will have a hard cover as per the ZBA, and the mechanical equipment is going to be sited in the basement of the existing building. It's heated with solar, solar-electric, and solar hot water system currently, which will also be used for the pool. In addition, the minimal landscaping around the pool will be water permeable in terms of any type of stone or walkway to get around the pool. I looked at every of possible place on the property in terms of siting the pool, and this is the only place



available. In trying to keep within the spirit of the conservation policies and not create an adverse impact on the wetland, I am taking some steps, which I believe, will permit this pool to exist and also the Wetlands to remain pristine. I'm going to re-wild the remaining buffer zone with native plants and bee habitat. My sense is that by creating a much more robust buffer zone, the pool will have no impact to the wetland. I'm also going to remove invasive species that exist currently in the buffer zone. I've submitted the DEP documents, I've notified the abutters, I've gotten permission from ZBA and, during that process, gotten the endorsement from the abutter that is closest to the pool. Lastly, it's my belief that the pool will not be visible from any existing neighboring structures when it's fully completed. So I don't think the pool or the area itself would be visible to any of my neighbors when it is fully constructed." Mr. Hastings then asked for any questions. The commissioners inquired about stabilizing the bank and not allowing the spoils of any excavation to run down the steep slope during construction. Mr. Hastings described the anticipated siltation barrier. The commissioners asked how the spoils will be removed from the site. Mr. Hastings explained that he will scrape off top soil and reuse it, removing the fill and transporting off-site immediately. Access to the site was described as going through the neighbor's property using small machinery and if necessary, on the other side of the house from the front of his house. The commission would like to see a site plan with topographic lines to determine if the edge of pool extends onto the downward slope.

The commissioners voiced their reluctance to approving a pool in the buffer zone and recognized that the home owner may not wish to spend more money obtaining plans for a project that may not be approved. Mr. Hastings is willing to provide a topographic site plan and in his understanding of the project, the grade would remain the same. Mr. Hastings continued that if the primary purpose of the buffer zone is to protect the wetland, the mitigation steps he is proposing will result in a more robust buffer zone, emphasizing that he is really trying to assure that the wetland remains protected.

Commissioners voiced concerns about the intensity of use on non-conforming lots and the proposed disturbance on the neighbor's property. Mr. Hastings intends to construct the pool with light equipment to reduce the disturbance. The commissioners would like to see a landscape plan with a list of plants and a landscape management plan. Mr. Hastings was amenable to compiling the vegetation plan and would also agree to obtain certification from a certified wetlands biologist regarding the plan, and whether or not it would provide adequate protection to this wetland. However, if there is a total ban on pools in the buffer zone, Mr. Hastings would not be interested in further investment in plans and expert consultation. If there are additional steps that can be taken to ensure the Conservation Commission that the construction of the pool is not going to impact the wetland, he is happy to do so.

The commission noted that the steep bank is a manmade creation to accommodate the septic system. Mr. Hastings suggested the material coming out of the hole for the swimming pool might be used to extend the level area of the yard toward the wetland, maintaining the current grade. Mr. Hastings is willing to provide a topographic map of pre- and post- construction which would indicate



that the slope is going to be maintained toward the wetland and be sufficiently graded so that it can hold native flora and act in a robust manner to provide a more substantial buffer than exists today. Mr. Hastings is not aware of a prohibition of mowing if it has been continuous, but it would be completely revegetated going forward without mowing in his proposed plan. The commission noted that the no-cut area with new native plantings in the buffer zone would improve the wetland.

The commission suggested a way to retreat from the downward slope toward the wetlands is to reduce the length of the pool. Mr. Hastings explained that the pool is designed for exercise for his wife, and he was told 40 feet was the standard for lap pools. While he is not committed to the 40 feet, if it gets too short, it will defeat its purpose. The lap pool is to be between 4 – 6 feet deep.

**Action:** A motion was made, and seconded, to adjourn the public hearing and continue on January 4, 2024. Passed unanimously via roll call vote.

#### Request for Determination of Applicability

Applicant: Lower Quansoo Electric Line Association, Inc

Address: Lower Quansoo Area. (AP 17-various)

Project: repair, replace and install private underground electric line and related equipment

Site visit conducted: October 31, 2023

Documents shared: spliced together 2 pages of the site plan

Doug Hoehn began the presentation of the project showing the site and stating that due to its size the delineations were not done for the entire project. Mr. Hoehn used GIS and FEMA flood map overlays for NHESP, flood plain, and wetland delineations. Mr. Hoehn will be speaking with NHESP next week to answer any questions about the project. Most of the project is an AE zone. Gus DuPont confirmed that the nature of the disturbance will be temporary and described the reconductoring project is to update the lines installed in the 1980s by leaving the existing lines in place and laying the new cable next to the existing wire. Keith Fenner provided details about the trenching at a depth of 42 inches for the cable-in-conduit to be placed within the road or just off on the side of the road. The conduit being installed will be able to remain in place and the cable within repaired or replaced in the future to avoid re-trenching. The lifespan of the cable is about 30 years, but may be longer within the protection of the conduit. Mr. Fenner explained that the work will be conducted in 500-1000 foot sections.

**Action:** A motion was made, and seconded, to make a negative determination with no further conditions. Passed unanimously via roll call vote.

Gary Mottau left the meeting at 10:02 am.

The town has snow fence available for the experiment in Menemsha to put down lath to slow dune wind scour. The commission will take pictures before and after installation and monitor over the winter to document the effectiveness of this process for use in future discussion and deliberation.

**Action:** A motion was made, and seconded, to approve the installation of lath in the dunes in Menemsha. Passed unanimously via roll call vote.



The commission approved the chair to sign the following with one abstention (Jane Rabe abstained for the vote on the certificate of compliance):

The Order of conditions for four NOIs:

SE12-916 Hancock – repair elevated slab and existing pier foundations (490 North Rd; 27.1-213)

SE12-917 Whiting – install coir logs on coastal bank (35 Old Fields Path; 16-7.2)

SE12-918 Regen Family– extend & maintain pier, construct kayak storage (6 Storks Nest Lane; 35-36)

SE12-919 Up Island LLC-relocate existing boardwalk, construct ramp & floating dock (21 Squibnocket Rd; 35-24 & 46)

The Certificate of Compliance:

SE12-839 Oliver – 139 Tea Lane (AP 3-1)

The commission recognized the recent turnover in multiple departments at Town Hall and confirmed the appropriate work flow for an application is to first get a zoning determination. In the future all applications will be sent to the Building and Zoning Officer before it is addressed by the Conservation Commission.

The property at 9 Signal Hill was discussed. The conservation commission is not able to make determination whether the wetlands marked as isolated wetlands are draining into Squibnocket Pond without a certified wetland specialist report. This determination will affect the zoning department's boundary for the Squibnocket Zones as described in Article 12. The commission will make a recommendation to the ZBA to obtain a wetland consultant's report that the conservation commission could review in order to answer the question of whether the wetlands marked as isolated wetlands are draining into Squibnocket Pond.

Administrative approval for re-siding at 10 Molly's way was recommended to the commission.

**Action:** A motion was made, and seconded, to ratify the administrative approval presented. Passed unanimously via roll call vote.

**Action:** A motion was made, and seconded, to approve the minutes from October 19, 2023; November 2, 2023; and November 16, 2023. Passed via roll call vote with Chris Murphy abstaining.

The meeting was adjourned at 10:39 am.

Respectfully Submitted by Carolyn Stoeber  
Minutes to be approved at the 1/4/24 Conservation Commission Meeting