



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION MEETING

**DATE: March 16, 2010 – 6:30 P.M.**

**LOCATION: TOWN HALL HEARING ROOM**

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at [town.barnstable.ma.us](http://town.barnstable.ma.us)), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chairman Dennis R. Houle. Also attending were Vice-Chairman Tom Lee and Commissioners Peter Sampou, Scott Blazis, Larry Morin, and Louise Foster. Commissioner John Abodeely was away. Rob Gatewood, Conservation Administrator, assisted.

The meeting was held in the Hearing Room, Barnstable Town Hall, Hyannis, MA.

### I MINUTES FOR APPROVAL

A. February 16, 2010

B. March 2, 2010

A motion was made to approve minutes (“A”), and to approve minutes (“B”), as amended.

Seconded and voted unanimously.

### II REQUESTS FOR DETERMINATION

**Elizabeth Gould.** Septic repair at 267 Scudder Rd., Osterville as shown on Assessors Map 139 Parcel 013. **DA-10015**

The applicant was represented by Glen Harrington, R. S.

Issues discussed:

- Tree clearing has already begun.
- Cesspool will be removed, if possible, once opened.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

### III NOTICES OF INTENT

**Joseph R. Jenkins, Tr./South Bluff Realty Trust of 1997.** Maintenance dredging at 195 Seapuit River Rd., and placement of dredge spoil in beneficial reuse area on Dead Neck, Osterville as shown on Assessors Map 070 Parcel 015. **SE3-\_\_\_\_\_**

(NOI's/Jenkins, cont'd.)

The applicant was represented by Peter Sullivan, P.E.

Issues discussed:

- Proposed maintenance dredging
- Division of Marine Fisheries comment letter was read
- Harbormaster had no objections, provided channel is kept open at all times
- Dredge depth is six feet, with a one-foot over-dredge allowance
- A revised plan will be submitted showing the same dredge footprint shown on the old Chapter 91 license plan
- Reducing the probability of over-dredge.

A motion was made to approve the project with special conditions.

Seconded and voted unanimously.

**Priscilla P. Morphy.** Landscape improvements to restore view corridor; resurface existing tennis court; restore/extend adjacent arbor and enhance buffer zone at 430 Wianno Ave, Osterville as shown on Assessors Map 163 Parcel 025-002. **SE3-\_\_\_\_\_**

The applicant was represented by Peter Sullivan, P.E., and Jack Oliver.

Issues discussed:

- As mitigation, nuisance species would be removed north of the tennis court and native woodland plants added
- A cluster of pitch pine would be thinned and several topped
- Whether this case would set a precedent for future vista pruning filings

A motion was made to continue the hearing to March 30<sup>th</sup>.

Seconded and voted unanimously.

#### **IV REQUEST FOR AMENDED ORDER**

**Jerry Blakeley & Patricia Baker.** Amend Order of Conditions SE3-4824 as follows: modify, but not lengthen, pier by replacing end pile with pier deck extension at 250 Windswept Way and 43 Sunset Pt., Oyster Harbors, as shown on Assessors Map 051 Parcels 011 and 012. **SE3-4824**

The applicants were present, and were represented by Arlene Wilson, P.W.S. and George Gilmore.

Issues discussed:

- Proposed change for safety reasons; it will render the berths much more secure
- Whether the centerpiece addition is truly necessary for safe berthing
- No concerns from the Harbormaster.

A motion was made to approve the amended order.

Seconded and voted unanimously.

#### **V CONTINUANCES**

**Stuborn Ltd. Partnership.** Remove dwelling, concrete pad, concrete foundation, invasive species, debris; construct single-family home with decks, patio, walkways, driveways, fence, grading and utilities at 153 Freezer Rd., Barnstable as shown on Assessors Map 301 Parcel 006. **SE3-4863**

The applicant was represented by Norman Hayes, P.W.S. and Kieran Healy.

(Continuances/Stuborn, cont'd.)

Issues discussed:

- A signed "Confirmation of Evidential Review" form was submitted by Commissioner Scott Blazis, allowing him to join the quorum
- A revised plan was submitted, shrinking the house footprint to within the 50-foot buffer zone
- The coastal bank delineation was corrected
- The pool was re-configured over 60-feet from the nearest resource
- Existing cedars to be relocated, using a tree spade
- An enhanced natural landscaping component was presented
- A 3.6:1 ratio of restoration to construction was presented
- The difference between maintenance (or "clean up") vs. mitigation
- Whether mitigation area "7" (inter-tidal) actually warranted restoration, and whether it should be counted as mitigation
- Whether the concrete pad from the old freezer building is suitable as a mitigation item
- The feasibility of providing parking within the 50-foot buffer

Public comment:

- Ann Canedy, Town Councilor, on behalf of John Brink, expressed concern for wildlife, e.g., the "Bob White", "Thrasher" and "Eastern Cottontail."
- Councilor Canedy was also concerned about including "clean up" as mitigation. She suggested that the Commission acquire a copy of the Chapter 91 license, and questioned the amount of upland on the parcel. She finds the proposed house much larger than those seen in the village.
- Peter Jason said that his request for documents from Mr. Bornstein had not been met. He asked that "filled tidelands" be delineated, as well as the historic "high water." Mr. Jason questioned the merit of some of the mitigation proposed.

In response to Ann Canedy, Stuart Bornstein stated that the property had only recently been surveyed, and that the results indicated four acres of upland. He said that many houses as large as the proposed exist in the village. In reference to a remark made at the Historical Committee hearing, Mr. Bornstein said it was his understanding that one of the review Boards asked him to join the guesthouse with the residence. The Chair added that it was not the Conservation Commission's request.

A motion was made to continue the hearing to March 30<sup>th</sup>.

Seconded and voted unanimously.

**Town of Barnstable/D.P.W.** Redevelop beach facilities at Sandy Neck; renovate bathhouse/concession building within existing footprint; construct Coastal Interpretive Center, four new parking spaces, garage at gatehouse and pathway along Sandy Neck Rd., Barnstable as shown on Assessors Map 263 Parcel 001. **SE3-\_\_\_\_\_**

Commissioner Lee recused himself, due to his firm's involvement in the project.

The applicant was represented by Mark Nelson, Nina Coleman, Tim Sawyer, and John Juros.

Issues discussed:

- NHESP comments, received on this hearing date, found no issues with the larger redevelopment project, but cited concern for the proposed sidewalk. NHESP requires additional information on pathway location so that impacts to habitat of state-listed species may be assessed.
- The possibility of contingency approval of the walkway project, requiring incorporation of all Natural Heritage conditions and restrictions.

Public comment:

- Attorney Bill Henchy, representing Edwin Lucas, said his client desires that no trees be removed beyond the footprint of the proposed garage. He also objected to any conditional approval of the walkway.
- Staff suggested the walkway be pursued in a future Request for Amended Order of Conditions.

(Continuances/ToB/DPW, cont'd.)

- A ten-foot limit of work around the garage was discussed. No tree removal allowed beyond the work.

A motion was made to approve the redevelopment project without the proposed walkway, the latter to be the subject of a future Request for Amended Order.

Seconded and voted unanimously.

**VI CERTIFICATES OF COMPLIANCE (ez = staff recommends approval) (\* = on-going conditions)**

A.	TOB/DPW	SE3-3597	(coc,ez)	restore parking surface and drainage *
B.	Favat	SE3-4810	(coc,ez)	permit or remove unpermitted items *
C.	New Harbor	SE3-1506	(coc,ez)	construct subdivision roadway

A motion was made to approve all certificates ("A – C").

Seconded and voted unanimously.

**A motion was made to adjourn.**

**Seconded and voted unanimously.**

**The time was 9:18 p.m.**