



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION MEETING

DATE : September 13, 2011 6:30 p.m.

LOCATION: SELECTMEN'S CONFERENCE 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), 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 and Rob Gatewood, Conservation Administrator were away. Darcy Karle, Conservation Agent, and Claudette Bookbinder, Administrative Assistant, assisted.

The meeting was held in the Selectmen's Conference Room, Barnstable Town Hall, 367 Main Street, Hyannis, MA.

I MINUTES FOR APPROVAL

A. August 30, 2011

A motion was made to approve the minutes. Peter Sampou abstained from the vote.

Seconded and voted unanimously.

II REQUESTS FOR DETERMINATION

Paul Critikos. Reconstruct existing shower from 6' x 10' to 8' x 16' including cement foundation, roof and drain; small boulder retaining wall also at 10 Indian Pond Pt., Marstons Mills as shown on Assessor's Map 083 Parcel 009. **DA-11075**

The applicant attended the hearing.

Issues discussed:

- A revised site plan was submitted at the hearing and noted as Exhibit A.
- The shed is to be removed and placed outside the Commissions jurisdiction;
- The drain will be capped
- The dead tree falling onto shed will be removed

Public comment:

- Emery Anderson was concerned mainly with the location of the shed.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Charles M. Harden & Robert B. Kinlin. Control/remove phragmites. The work to be done by licensed professional at 3264 and 3256 Main St., Rte. 6A, Barnstable as shown on Assessor's Map 299 Parcels 034 & 033. **DA-11077**

The applicant was represented by John O'Dea, P.E.

Issues discussed:

- The project to take place mostly on #3264 Main Street
- The large area of phragmites will be mowed, in consultation with staff

Public comment:

- Doug Mitchell of Friends of Barnstable Harbor, said that he was very much in favor of the project.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Samuel S. Mullin, Tr./ 89 Blue Heron Trust. Control/remove phragmites. All work to be done by licensed professional at 89 Blue Heron Dr., Osterville as shown on Assessor's Map 117 Parcel 005. **DA-11076**

The applicant was represented by John O'Dea, P.E.

Issues discussed: No concerns arose.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Nancy L. Garraghan. Remove invasive plants and vines along Hall's Creek; replanting with native species; construct addition, porch and patio; connect house to existing natural gas line on Ocean Dr. and bury cable utilities underground, at 115 Ocean Dr., W. Hyannisport, as shown on Assessor's Map 266 Parcel 006-001. **DA-11078**

The applicant was represented by Steve Wilson, P.E.

Issues discussed:

- No excavation on water side
- Will tap into natural gas
- Question of whether filing should be an RDA or an NOI, as work to be done within 50-foot buffer
- Concern was expressed about protecting the 50-ft. buffer and mitigation
- Removal of invasives would be withdrawn; to be filed for separately
- No square-footage shown on plan.
- Minimum excavation – contractors to work closely with staff.

A motion was made to issue a negative determination.

Seconded and voted unanimously.

Barnstable Housing Authority. To confirm that the intermittent stream is not a river, as defined by blue line on associated USGS Maps, at 70 Stage Coach Rd., Centerville as shown on Assessor's Map 173 Parcel 026. **DA-11079**

The applicant was represented by Michael Shulz, Esq., and Sandy Perry.

Commissioner Blazis recused himself.

The following exhibits were submitted by Mr. Shulz:

1. Exhibit A – memo from Rob Gatewood to Art Traczyk, dated 6/18/07;
2. Exhibit B – Comprehensive permit from the B.H.A.
3. Exhibit C – Affidavit from J. M. O’Reilly
4. Exhibit D – copy of 1899 G.I.S. map.

Issues discussed

- Chapter 40-B comprehensive permit
- Pre-existence of cranberry bogs, now defunct
- Whether “blue line” in 1899 G.I.S. plan proof of a perennial stream
- Rivers Act; 200-foot limit as determination that project is outside of Conservation jurisdiction
- Trenches not depicted on site plan
- Rob Gatewood’s prior conclusion that the area in question is an intermittent stream.

A motion was made to affirm the determination of an intermittent stream.

Seconded and voted unanimously.

III NOTICES OF INTENT

George P. & Polyxeni T. Haseotes. Convert driveway to concrete; install walkway pavers and pergola, plant bed, lawn, two paving-stone patios, new fencing to replace old, at 773 So. Main St., Centerville as shown on Assessor’s Map 185 Parcel 013. **SE3-_____**

The applicant attended the hearing, and was represented by Emile Tayeh and Attorney Amy Hanson.

A proposed landscape plan, dated 9/6/11, was submitted at the hearing, and marked Exhibit A.

Issues discussed:

- No grading being changed or disturbed
- No activity outside of existing fence abutting river
- Silt fence to be installed, and afterward existing fence to be manually removed
- Railroad ties to remain
- New fence to be professionally installed, two feet inside of old fence.
- The Rivers Act was in question, and had not been addressed.
- A permeable drive would be better than hardscape;
- No wetlands were depicted on the plan, nor were jurisdictional boundaries shown.
- Mitigation within 50-foot buffer
- A stone patio was to replace grass in the buffer zone.

The Commission noted that the fence being brought in by 2-feet was a good thing. However, the coastal bank still needed to be addressed.

A property history from requested staff.

A motion was made to continue the hearing to September 27th.

Seconded and voted unanimously.

Charles & Carole Pieper. Raze existing fire-damaged house (to first-floor deck); construct new house and additions, construct pool and pool house; landscaping at 721 Old Post Rd., Cotuit as shown on Assessor’s Map 054 Parcel 001-002. **SE3-4962**

The applicant was represented by Steve Wilson, P.E. and the architect.

Issues discussed:

- The applicant was willing to withdraw the pool, pool house and patio, in order to reconstruct fire-damaged house
- Within the 50 – 100-foot buffer zone, there would be an additional 481 square feet of increased hardscape and new septic system
- The proposed plan was displayed and noted as Exhibit A.
- No new work would be done within the 50-foot buffer
- A 3:1 mitigation ratio can be done by the landscape architect.

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

Seconded and voted unanimously.

Herbert Cabral. Construct single-family dwelling with driveway, utilities and well at 388 High Street, W. Barnstable as shown on Assessor's Map 111 Parcel 012. **SE3-4960**

The applicant was represented by Jack Vaccaro.

Issues discussed:

- An Order of Conditions for a similar project has lapsed; a Certificate of Compliance required to close out the old file.
- Two separate wetland areas: bordering vegetated wetland and drainage ditches and creeks
- The house and garage will be outside the 100-foot buffer;
- Installation of the well, burial of utilities, and the gravel drive are the questionable issues.
- There will be a minimum of woody vegetation;
- 4-feet to wetland boundary at closest point;
- Concern was expressed about drainage, and about heavy construction taking place in springtime
- A letter from MA Division of Fisheries & Wildlife/Wetlands Protection and MESA both concluded no significant environmental impact.

Public comment:

- A letter was from abutters to the project, Jane and John O'Hara, were vehemently opposed to the project, citing a vernal pool in area.
- Peter Costello said another approach, i.e., from Lisa Lane, should be considered for the drive.
- Pat Lawlor had concerns about the vernal pool on her property which, she says, is teeming with life. She said that, in some places, the pool is within ten feet of the proposed drive. Ms. Lawlor read an excerpt from MA Audubon regarding the fragility of a vernal pool and amphibian life. As the vernal pool is not certified, one of the Commissioners stated that it should be certified in order to protect it.

Jack Vaccaro stated that, though the applicant has no frontage on Lisa Lane, to reduce impact to the environment, etc., if he can get access to Lisa Lane, he will take that measure for the drive.

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

Seconded and voted unanimously.

L. Denis Roche. Permit for two existing piers with adjoining platform; replace stone area with vegetation at 266 Holly Point Rd., Centerville as shown on Assessor's Map 232 Parcel 030. **BCC-191**

The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- Photos of jet-ski on hoist/rack were submitted and noted as Exhibit A.
- A pier on Lake Wequaquet has been there since the early sixties; a second one, since the eighties; neither pier has been grandfathered;
- The Commission had voted to have the floating pier removed, and the other to be significantly scaled back;

- A DEP Superseding Order of Conditions was issued; the Conservation Commission did not appeal the decision;
- The applicant is requesting that the stone area be removed and re-vegetated, and all planks for both decks be eventually replaced with non-CCA-treated materials;
- Mitigation and improvement was a concern of one Commissioner; another Commissioner questioned what vessels are currently being docked at the piers. Ms. Wilson replied that a motorized pontoon was docked at both the large and small docks; at least two kayaks and a small dinghy, as well;
- Currently, there are no local permits for the docks; owner would need one for a Chapter 91 license.
- The small dock will be removed when no longer needed for handicap-access by the current owner.

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

Seconded and voted unanimously.

IV CONTINUANCES

Desmond & Dorothy Heathwood. Permit and maintain deviations to existing pier: add 2nd 8' x 12' float; maintain light and utility connections at 50 Windrush Ln., Osterville as shown on Assessor's Map 093 Parcel 071. **SE3-4958**

The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- The project was originally denied by the Commission;
- The second float has been there for twenty years;
- The present request is to permit the existing second dock, and add float;
- No recommendations were made by Division of Marine Fisheries;
- The western slip is for non-motorized vessels only;
- Pier modifications represent a substantial change;
- Upon change of ownership, the permit for the existing boat will be rescinded;
- Any new vessel must be approved by the Commission, and must comply with the 12-inch rule.

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

Seconded and voted: 5 votes "Yea;" 1 vote "Nay."

Jane Bertolami, Trs., Jetty Realty Trust. Raze existing house; construct new house with attached garage; landscaping, mitigation planting and removal of invasive species at 15 Sea View Ave., Osterville as shown on Assessor's Map 162 Parcel 026-002. **SE3-4955**

A written request was received from the consultant for a continuance.

A motion was made to continue the hearing to October 11, 2011.

Seconded and voted unanimously.

No testimony was taken.

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

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|----|-----------|----------|----------|---|
| A. | Selldorff | SE3-4663 | (coc,ez) | raze & construct single-family dwelling * |
| B. | Spillane | SE3-1267 | (coc,ez) | expand deck of single-family dwelling * |

A motion was made to approve certificates A and B.

Seconded and voted unanimously.

VI OLD & NEW BUSINESS

A Joseph Garodnick – 56 Wild Goose Way, Centerville. Request to modify enforcement order – replanting

Mr. Garodnick attended the hearing, along with arborist, Keith McKeone of Patriot Landscaping .

Agent Darcy Karle gave a history of the cutting violation.

Issues discussed:

- Request by Mr. Garodnick to lower the number of trees and shrubs to be replanted, considering costs involved;
- Concern with the lengthy enforcement history;
- Replacing canopy with shrubs not considered feasible; replanting plan deemed fair;
- Cost of environmental impact greater than monetary cost of re-planting plan;

A motion was made to re-affirm the planting plan; arborist to work with staff; a meeting site visit to take place with staff and consultants. Planting deadline: November 15th, 2011.

Seconded and voted unanimously.

B. Gilmore/Rhodes – 347 Sea View Ave., Osterville – Emergency certification for failed bulkhead after Hurricane Irene

A Revised Plan or Notice of Intent application to be filed.

C. Gilmore/Thibeault – 377 Sea View Ave., Osterville – Emergency certification for repair of bulkhead from storm damage after Hurricane Irene

A Notice of Intent application to be filed.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 9:49 p.m.