



**Town of Barnstable
Conservation Commission**
200 Main Street
Hyannis Massachusetts 02601

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: SEPTEMBER 10, 2019 @ 3:00 PM

LOCATION: Hearing Room – 367 Main St., 2nd Floor, Hyannis, MA 02601

This meeting of the Barnstable Conservation Commission is being recorded and transmitted by the Information Technology Department of the Town of Barnstable on Channel 18. Under MGL Chapter 30A Section 20, anyone else desiring to make such a recording or transmission must notify the Chair.

The meeting was called to order at 3:00 p.m. by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners John Abodelly, Pete Sampou (arrived at 3:20 p.m.), Larry Morin, and George Gillmore.

Darcy Karle, Conservation Administrator, assisted along with Ed Hoopes, Conservation Agent. Paula Schnepf, Town Council Liaison was present for the 3:00 PM session.

3:00 PM AGENDA

I CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval)

- A. Eskandarian SE3-3477 (coc, ez) modify existing dock (not done)
421 Main Street, Osterville - East Bay

A motion was made to approve the certificate.
Seconded and voted unanimously.

II REVISED PLANS

Project type:

Revisions:

- | | | |
|--|--|---|
| A. Chrisjen Realty Trust SE3-5174
86 Sand Point, Osterville | Addition, pool and patio,
landscape, relocate driveway. | Modifications to pool, patio
building, and driveway. |
|--|--|---|

The applicant was represented by John O’Dea, PE of Sullivan Engineering.

- Hardscape was actually reduced, project does not warrant additional mitigation.

A motion was made to approve the plan request.
Seconded and voted unanimously.

- | | | |
|--|---|--|
| B. 1071 Old Post Realty Trust SE3-5584
1071 Old Post Road, Cotuit | Construct accessory structure
pool & patios, landscape wall. | Access down the bank, reduce
bungalow size, move spa. |
|--|---|--|

The applicant was represented by John O’Dea, PE of Sullivan Engineering.
A motion was made to approve the plan request.

Seconded and voted unanimously.

- | | | |
|---|---|---|
| C. Richard Egan/Crosby Yacht SE3-4853
41 Cockachoiset Lane, Osterville | Remove pier, add bulkhead, pier dredge. | Change steel bulkhead to vinyl, add washdown station, move bulkhead north, convert shell area |
|---|---|---|

The applicant was represented by John O’Dea PE, of Sullivan Engineering.

*Commissioner Gillmore recused himself.

- Question raised why switch from steel to vinyl bulkhead.

A motion was made to approve revised plan, subject to further revision labeling on the plan the conversion from shell to concrete.

Seconded and voted unanimously.

- | | | |
|---|--|-----------------------------------|
| D. Windswept Way Realty Trust
196 Windswept Way, Osterville
DA-19011 and SE3-5552 | Seasonal dingy dock, deck and walkway. | Lighting from the deck onto pier. |
|---|--|-----------------------------------|

The applicant was represented by John O’Dea, PE of Sullivan Engineering

A motion was made to approve the plan request.

Seconded and voted unanimously.

III EXTENSION REQUESTS

Project type:

Time Requested:

- | | | |
|---|--|---------|
| A. Robin Brown Trustee, SE3-5022
250 Smoke Valley Rd, Osterville | Elevate cottage, add 2nd story, replace septic, new guesthouse, access stairs. | 3 years |
|---|--|---------|

A motion was made to approve the extension request for 3 years.

Seconded and voted unanimously.

- | | | |
|---|-----------------------|---------|
| B. Desmond Heathwood & Kevin McCafferty
40 & 50 Windrush Lane, Osterville SE3-5442 | Maintenance dredging. | 3 years |
|---|-----------------------|---------|

A motion was made to approve the extension request for 3 years.

Seconded and voted unanimously.

IV OLD & NEW BUSINESS

- A. Long Beach Conservation Area – scope of work.
- Noted.

B. Treatment of Long Pong, Centerville, Mystic Lake and Middle Pond, Marstons Mills.

- The Conservation Administrator advised the Commission that she had prepared a package to present to the Town Manager, Mark Ells requesting to continue the use of fluridone to treat hydrilla in Long Pond, Centerville, Mystic Lake and Middle Pond, Marstons Mills. The request was granted.
- Currently there is a three year contract. Prior to the beginning of each contract year, a new proposal will be submitted to Solitude. Funding will need to be secured and the project will need to be reviewed and approved by the Town Manager. Project will be based on end of year reports.

- Information noted.

V CHAIRS EXECUTIVE REVIEW

- A. Approve and retain the executive session minutes of July 23, 2019 which are related to the matter of Frank Raspante Realty Trust vs. The Barnstable Conservation Commission, as litigation is still ongoing.
- Noted

VI ENFORCEMENT ORDERS

- A. Mary Beth & Brett A Quinn Trs & Bay 108 Realty Trust - 108 Bay Rd. Cotuit – Map 007 Parcel 022. Alteration of the 50’ buffer to a coastal bank by constructing a retaining wall with fill.

Exhibits

- A. Site Plan showing location of former loose-rock wall to top of bank.
B. Photos showing before and after pictures of loose rock wall vs. more formal wall.

The Quinn’s were represented by Arlene Wilson, A.M. Wilson Associates.

Issues discussed:

- Necessity of NOI vs RDA – since it appears there may have been a small amount of fill and/or regrading a Notice of Intent is required.

The Commission voted unanimously to approve the Enforcement Order.

- B. William J. & Kathleen M. Fitzgerald – 162 Clamshell Cove Rd., Cotuit – Map 005 Parcel 009. Alteration of a resource Area – Shoestring Bay – by keeping an unpermitted jet ski float.

Exhibits

No exhibits were presented.

The Fitzgerald’s were represented by Dan Ojala, Down Cape Engineering

Issues Discussed:

- Dan Ojala provided a letter and photos (dated September 9, 2019) stating the jet ski float had been removed from the dock. The Fitzgerald’s complied with the Enforcement Order.

The Commission voted unanimously to approve the Enforcement Order.

VII WARNING LETTERS

- A. TFG Hyannis Hospitality, LLC – 35 Scudder Ave., Hyannis - Allowing trash/litter to accumulate in wetland and buffer to wetland.
- Noted. The trash has been picked up.
- B. Alick DePaula – 444 Rt. 6A/Main St., West Barnstable – Failure to complete restoration planting.

- Mr. DiPaula has had several extensions for these plantings (most recent deadline was May 30, 2019). He has not responded to email or certified mail.
- The Commission voted unanimously to have staff issue a non-criminal citation to Mr. DiPaula.

4:30 PM AGENDA

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The meeting was called to order by Chair F. P. (Tom) Lee. Also attending were Vice-Chair Louise R. Foster, Clerk Dennis R. Houle, and Commissioners John Abodelly, Pete Sampou, Larry Morin, and George Gillmore.

Darcy Karle, Conservation Administrator, assisted along with Kim Cavanaugh, Administrative Assistant.

VIII REQUEST FOR DETERMINATION

Town of Barnstable – Department of Public Works. Proposed foot path access improvements and removal of two hazardous trees at 85 Old Shore Road, Cotuit as shown on Assessor’s Map 035 Parcel 072.

The applicant was represented by Andrew Bernier TOB/DWP Highway, tree warden and project foreman.

Exhibit 1: Guide to Risk Rating Codes

Issued discussed:

- New access path on Ropes beach to the water. The current path is damaging native vegetation. Also for erosion control.
- A split rail fence has already been installed and is re-directing the foot traffic.
- Would like to start re-establishment of vegetation in September.
- The trees are a white oak and a poplar that are in severe decline.
- These trees are located next to Old Shore Road which is a high traffic area. They could be hazardous and a safety issue.

There was no public comment.

A motion was made to approve a negative determination.
Seconded and voted unanimous.

IX NOTICES OF INTENT

Mass. Division of Fisheries & Wildlife. Management of specialized and rare species in a unique ecosystem using various tools including herbicide, mechanical (cutting/mowing), and prescribed fire at 885 Mary Dunn Road, Hyannis as shown on Assessor’s Map 332 Parcel 015.

Applicant was represented by Daniel Bove - Mass Wildlife Restoration Ecologist.

Issues discussed:

- The goal is to re-establish the area as this is a rare pond.
- Shore line has been encroached on by woody species.
- Not a project they will do in one year. Will do in several phases.
- Use of herbicides and mist blowing: Commission would like use of mist-blowing removed from application as it is not appropriate for this site. Use of glyphosate should be very limited and applied using the glove wipe technique or dabbed on cut roots only. The use of a minimal amount of herbicide is worth saving these globally rare exotic species.
- The Commission would like periodic reports on what is found and how it is treated. There should be annual reports and/or periodic consultation with staff.

There was no public comment.

A motion was made to approve the project as submitted subject to the following special conditions; elimination of the mist blower as an option of applying herbicide, annual reports for 3 years, any modification in the protocol over time must be submitted to Conservation staff for review and approval.

Seconded and voted unanimous.

Jessica L. Fieber. Demolish existing dwelling, construct new dwelling with associated patios, decks and retaining walls; re-grading at 180 Baxters Neck Road, Marstons Mills as shown on Assessor's Map 75 Parcel 22. SE3-5713.

Louise Foster recused herself.

Commissioner Abodeley lives on Baxter Neck but is not an abutter.

The applicant was represented by Dan Ojala, PE of Down Cape Engineering.

Issues discussed:

- The removal of the gravel path should include some plantings rather than just meadow grass.
- The white plastic pipe sticking out of the ground in the gravel area is just an umbrella holder.

Public comment:

Charles Andrianopoulos – 162 Baxters Neck Road

He is concerned that the house is considerably larger than what is there and the front set back is much closer to his property line. There is a 50' setback which meets the code. This would not be a Conservation issue. Also concerned on how many trees will be removed. Dan indicated they will work with him if there is a buffer concern.

A motion was made to approve the project as submitted, subject to receipt of a revised plan that shows correct layout of path down to the pier and that provides a 4' wide mitigation strip on the seaward edge of the gravel area that is to be removed.

Seconded and voted unanimous.

Oyster Harbors Club, Inc. Proposed extension of existing roof over existing patio to create covered grill terrace, with side walls and door for inclement weather and extension of existing uncovered patio with fire pits at 170 Grand Island Drive, Osterville as shown on Assessor's Map 053 Parcel 012 001. SE3-5711

The applicant was represented by John O'Dea, PE of Sullivan Engineering.

Issues discussed:

- The plan shows grass all the way to the fence. The Commission would like them to consider putting in some plantings.

There was no public comment.

A motion was made to approve the project as submitted, subject to receipt of a revised plan that adds some plants in the 6' wide mitigation band in consultation with staff.

Seconded and voted unanimous.

Massachusetts Audubon Society Inc. Proposed construction of a roughly 1,600 sf – one story building with all associated appurtenances including walkways, grading, and landscaping at 345 Bone Hill Road, Cummaquid as shown on Assessor's Map 337 Parcel 010 001. SE3-5712

Applicant was represented by John O'Dea Sullivan Engineering, Ian Ives, Sanctuary Director, Mary Griffin, Regional Director and Kristian Mizes-Tan of Jill Neubauer Architects.

Issues discussed:

- Goal of project is to better accommodate current programming. There will be full ADA accessibility to the building.
- Drainage report dated December 6th is acceptable.

Public comment:

Peter Smith, 21 Perch Pond Way, Yarmouthport.

He does not have any issues with the building however, feels the Audubon cannot handle what they have going on now and this would be a major intensification of the use of the property. He was told he could not use the Town Way to Water. They are blocking the public way, stopping people from accessing the beach. These concerns are not in Conservation jurisdiction but should be brought to the attention of another Department. Suggested he contact the Town Manager or Town Council.

A motion was made to approve the project as submitted.
Seconded and voted unanimous.

Assembly Required LLC, c/o Nancy Samiljan. Proposed greenhouse at 617 Main Street, Osterville as shown on Assessor's Map 141 Parcel 104-001. SE3-5710

Applicant was represented by Tarja McGrail from Coastal Engineering, Attorney Sarah Turano-Flores, and Seth Wilkinson of Wilkinson Ecological Design.

Issues discussed:

- There is a lower level for storage of plant materials.
- Heat source will be forced hot air, gas.
- One tree being removed as it will shade the greenhouse.

There was no public comment.

A motion was made to approve the project as submitted.
Seconded and voted unanimous.

June Pye. Proposed construction of an addition with garage, mudroom, porch, and deck at 43 Acorn Drive, Barnstable as shown on Assessor's Map 216 Parcel 10.

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

Exhibit 1 – Revised plan dated 9/9/19

Issues discussed:

- The brush pile could be a great source of refuge for wildlife. Should be reduced but maybe not totally removed.
- There is a pipe coming out behind the house that could be draining into the wetland. It is a sump pump from the basement. There are also pipes from the gutters. Drywells or gravel trench should be installed under down spouts.

There was no public comment.

A motion was made to approve the project as submitted subject to the following conditions, in consultation with staff some of the brush may remain if it is found to be beneficial to wildlife but no new brush may be added to the pile. Drainage from downspouts should be directed into drywells or drip trenches.
Seconded and voted unanimous.

A motion was made to adjourn.
The time was 5:48 p.m.