



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

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**MINUTES- CONSERVATION COMMISSION HEARING**

**DATE: December 10, 2019 @ 3:00 PM**

**LOCATION: James H. Crocker, Jr. Hearing Room – 367 Main St., 2<sup>nd</sup> 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, Larry Morin, and George Gillmore and John E. Abodeely. Commissioner Peter Sampou arrived at 3:20 p.m.

Darcy Karle, Conservation Administrator, assisted along with Ed Hoopes, Conservation Agent and Fred Stepanis, Conservation Assistant.

**3:00 PM AGENDA**

**I CERTIFICATES OF COMPLIANCE** (d = deviations, staff recommends denial) (\* = on-going conditions)

- A. Gould SE3-4817 (coc, d) construct elevated stairway; vista pruning \*  
139 Regency Drive, Marstons Mills - Mystic Lake
- B. Gould SE3-4822 (coc, d) construct boatshed \*  
139 Regency Drive, Marstons Mills - Mystic Lake

The following compliance deviation was noted:

Since the original vista pruning site visit on 6/22/09, trees have been cut on the inland bank. All of the trees are within 100-ft. of wetland. Some may have been within 50-ft.

The applicant was represented by Lynne Hamlyn of Hamlyn Consulting.

All agreed that the cutting of trees was a violation. The violation will be turned over to the enforcement agent for enforcement. Once enforcement order has been satisfied, a request will be submitted for a compliance re-inspection.

A motion was made to deny the Certificate of Compliance.  
Seconded and voted unanimously.

**II REVISED PLANS**

**Project type:**

**Revisions:**

- A. Damon & Gabriella Collins SE3-5461 Addition, deck & pool Deck returns, landscape wall, relocate pool fence.  
120 Starboard Lane, Osterville

The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting Inc.

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

**III EXTENSION REQUESTS**

**Project type:**

**Time Requested:**

- |   |                         |         |
|---|-------------------------|---------|
| A. Elizabeth A. Tacelli, Tr. SE3-5435<br>391 Green Dunes Drive, Centerville | Construct two additions | 3 years |
|---|-------------------------|---------|

The applicant was represented by John O’Dea P.E. of Sullivan Engineering and Consulting Inc.  
A motion was made to approve the 3 year extension.  
Seconded and voted unanimously.

**IV ENFORCEMENT ORDERS**

- A. Jason & Nicole Merriman – 410 Church St., West Barnstable – Map 176 Parcel 009. Alteration of 100’ buffer to a river and 50’ buffer to a wooded swamp by cutting vegetation.

Exhibits

- A. ARC/GIS map showing wetland resource areas and Plan of Record from DA-97067
- B. Photos of site conditions on 10/11/2019

The Merriman’s were represented by Lynne Hamlyn, of Hamlyn Consulting.

**Issues discussed:**

- Extensive cutting in the 100’ riverfront area was done in order to remove invasive bittersweet and honeysuckle, alleviate mosquito issues and conduct general property cleanup. Goal was to replace with native vegetation.
- Debris and slash piles within 100’ from an old shed.
- Very slight grading and tire ruts have caused pooling water. The Merriman’s did plant a NE Meadow mix to help reduce any erosion on site.
- 6 larger (8-10” dbh) trees cut in 50’ buffer to wooded swamp at north side of property.

The Commission voted unanimously to approve the Enforcement Order.

- B. Gregory M. & Katelyn E. Hobill - 202 Whistleberry Dr., Marstons Mills – Map 062 Parcel 026. Alteration of 50’ buffer to a BVW by allowing soil to erode and wash into the buffer.

Exhibits

- A. ARC/GIS map and Plan of Record for SE3-5500
- B. Photos of site conditions on 10/30/2019
- C. Order of Conditions issued for SE3-5500  
Presented by the Hobill’s:
- D. Photos of missing downspouts and gutters and washed out area on abutters property

The Hobill’s were represented by Jacques Morin and were present at the hearing.

**Issues discussed:**

- There is an open Order of Conditions for this site (SE3-5500).
- The site was graded but not vegetated and the wattles that were used for erosion control along the work limit line were either removed or buried under fill.
- Several places along the WLL had small infiltrations of soil. There was one larger overflow that moved across abutters property onto the access road for a cranberry bog.

- All areas of soil overflow will be cleaned up using hand tools and wheel barrows (no heavy equipment on the resource side of WLL).
- The Commission amended the compliance date for installing the erosion control wattles and jute matting to January 25, 2020.

The Commission voted unanimously to approve the Enforcement Order with amended compliance date.

- C. John V. & Rosemary E. Camillieri – 50 Bay Shore Rd., Hyannis – Map 325 Parcel 165.  
Maintaining unpermitted floats on a permitted pier (SE3-0630) and failure to request a Certificate of Compliance.

Exhibits

- A. Plan of Record for SE3-0630 (pier, ramp, float and dredging)
- B. Photos of site conditions on 11/06/2019
- C. Series of aerial photos showing various float number and configurations

Mr. & Mrs. Camillieri represented themselves.

**Issues discussed:**

- Order of Conditions (SE3-0630) issued 8/25/80 permitting pier, ramp, 8'x32' pile supported float 2 offset piles 32' apart 30' north of float. Order of Conditions expired 8/25/83.
- There were 32' (256 sq. ft.) of float space permitted with this project. Currently, there are approximately 120' (500 sq. ft) of additional float space attached to the pier.
- Mr. Camillieri requested that the "L" floats (unpermitted) be allowed to remain on the dock. The Commissioners did not support this, however they did say he could file a NOI to seek permitting for these floats. They further warned Mr. Camillieri that this might be a significant expansion under current regulations and that would require all components of the dock and floats to meet current regulations.
- In order to seek the Certificate of Compliance the Commission asked that all unpermitted floats be removed from the pier.

The Commission voted unanimously to approve the Enforcement Order.

- D. Michael Rolfe TR – 256 Bog Rd., Marstons Mills – Map 046 Parcel 006. Alteration of 50' and 100' buffer to Bordering Vegetated Wetland by adding hardscape without a permit.

Exhibits

- A. Incomplete plot plan showing wetland delineation at 256 Bog Rd., Marstons Mills
- B. Photos of site conditions on 11/22/2019

There were no representatives for this hearing.

**Issues discussed:**

- Mr. Rolfe has come to Conservation for 2 building permit sign-offs (for a detached garage and a pole barn). Both were to be built outside 100' jurisdiction.
- The garage was built but partly encroached into Conservation jurisdiction by 8-10'. The pole barn had a gravel parking area that also was going to overlap the 100' buffer. There have been several unpermitted patios that were built within the 50'-100' buffer and a deck and steps with rinse station built within the 50' buffer. Three downspouts were also emptying onto the ground within the 50' buffer.
- Mr. Rolfe did have a new delineation of wetland resource areas on the site.
- Conservation Agent asked Mr. Rolfe to put up some erosion controls between the house and wetland resource area and to stop conducting any work within the 100' buffer until a Notice of Intent is filed and Order of Conditions is issued to permit and provide mitigation for the

hardscape. Mr. Rolfe has complied with all erosion control requests and has filed an after-the-fact NOI scheduled for January 7, 2020.

The Commission voted unanimously to approve the Enforcement Order.

- E. **Continued from 11/5/2019.** Ninety Bay View LLC. – 90 Bayview Rd., Barnstable – Map 319 Parcel 031 Alteration of wetland and 50' buffer by allowing erosion and drainage issues on property causing water and/or sediment to run into isolated wetland off-locus, site conditions not consistent with approved revised plan.

#### Exhibits

No new exhibits were presented.

Ninety Bay View LLC was represented by Daniel A. Ojala, Down Cape Engineering.

#### **Issues discussed:**

- A vapor barrier and cement slab have been added to the crawl space.
- The grade needs to be adjusted so that rain and snow pitches away from the foundation.
- The Project Engineer will continue to provide weekly updates to Conservation.
- The Project Engineer could not get the drainage, drywell, and sewer line connections scoped due to weather and scheduling conflicts. He will be attempting to get this completed within the next several weeks. Once this is done and grading is complete the revised plan (showing as-built conditions) will be able to be submitted.

The Commission agreed to allow the continued monitoring by engineer and finalize issues in spring.

## **V WARNING LETTERS**

- A. Pinho, James F. & Kerri J. – 65 Short Beach Rd., Centerville – Deficiencies to mitigation planting pursuant to Enforcement Order and Order of Conditions.

#### Exhibits

- A. Approved plan for SE3-5636 (bulkhead replacement)
- B. Approved plan for SE3-5576 (small additions and mitigation planting)
- C. Photos of existing conditions on 11/22/19
- D. Minutes of Conservation Commission meeting from January 8, 2019

Supplied by John O'Dea, of Sullivan Engineering

- E. Photos of existing bulkhead and showing former position of bulkhead

The Pinho's were represented by John O'Dea, of Sullivan Engineering.

- This was tabled from the November 5, 2019 meeting so staff could check on wording as it relates to bulkhead reconstruction and impact to mitigation planting area immediately behind bulkhead.
- The Pinho's claim that the mitigation area (SE3-5576) was made smaller due to the reconstructed bulkhead (SE3-5636) being moved 1.5' landward.
- The Pinho's intention for trading mitigation area for potential salt marsh growth was not verbalized nor understood by the Commissioners at the January 8, 2019 hearing.
- The Commissioners believe the 3' buffer strip called for is still owed to fulfill the mitigation planting under SE3-5576.

The Commission voted to uphold the 3' planting buffer and asked that the Pinho's notify the Commission in writing whether or not they will be planting the mitigation requirement as determined by the Commission.

## **VI OLD AND NEW BUSINESS**

- A. Annual Sandy Neck Report 2019  
Nina Coleman, Sandy Neck Park Manager presented the 2019 annual report required by orders of conditions for SE3-4712 and SE3-4713.

- B. Gormally FW: Heckscher: Draft Letter to Commission and Status Report

Correspondence – Letter from Attorney Glenn Wood dated 11/26/2019

A motion was made to accept Christopher Heckscher's request to withdraw SE3-5293, and hereby withdraw and rescind the order of conditions under SE3-5293. The order of conditions under SE3-5715 is effective upon dismissal of all judicial and administrative action with prejudice, without costs. Seconded and voted unanimously.

- C. MassWildlife Habitat Management Grant Program Award - West Barnstable Conservation Area.

Noted.

- D. New England Mountain Bike Association – Proposed re-routing and extension of trail at Old Jail Lane Conservation Area.

Mr. Lev Malakhoff represented the New England Mountain Bike Association (NEMBA).

### **Issues discussed:**

- There is a section of trail in the northern portion of Old Jail Lane Conservation Area that is particularly steep and eroded in places. These conditions could pose a safety hazard, especially to less experienced riders.
- Some pedestrians may find it difficult to walk on this section of trail too.
- NEMBA proposes to re-route a small portion of the trail to loop around the steepest sections of this trail and, following contours, make a more gradual climb up and around the existing trail.
- The trail would be developed with Conservation staff and would be implemented by volunteers from NEMBA. NEMBA carries insurance for its members when conducting trail maintenance on Town of Barnstable land.
- The trail would be created using a small gravelly and hand tools and would be limited to no more than 4' width. No trees are to be cut.
- The steep section of trail that this re-route is replacing will be closed.

The Commission voted unanimously to allow the re-routing of the trail.

## **4:30 PM AGENDA**

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## **VI REQUESTS FOR DETERMINATION**

**Raquel M. Rodriguez & Christopher M. Lynch.** Proposed removal of 6 trees from the 100' buffer zone, proposed pool fence along edge of lawn, and modification of approved vista corridor(s) at 325 Baxters Neck Road, Marstons Mills as shown on Assessor's Map 075 Parcel 008-002. **DA-19060 \$45.55**

The applicant was represented by John O’Dea P.E. of Sullivan Engineering and Consulting Inc.

Exhibit A – Revised plan dated 12/10/2019

**Issues discussed:**

- Comment about a beautiful holly that they have slated for removal in westerly corridor.
- Question raised could pool fence be pulled back toward pool.
- Pool fence will meet the building code.

A motion was made to approve a negative determination based on revised plan dated 12/10/2019. Seconded and voted unanimously.

**Deb Roy & Rupal Patel.** Construction of a 16’ X 24’ porch on posts in place of a major portion of the existing deck at 200 Pond Street, Osterville as shown on Assessor’s Map 118 Parcel 040. **DA-19061 \$27.33**

The applicant was represented by Daniel O’jala, P.E. of Down Cape Engineering Inc.

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

**VII NOTICES OF INTENT**

**Town of Barnstable DPW / Griffin Beaudoin.** The Town of Barnstable is proposing one stormwater retrofit at one location within the Three Bays watershed. The proposed project is a series of dry swales and infiltration chambers at River Road/ Rosa Lane, Marston Mills and no map and parcel numbers for Rows. **\$45.55**

- Chair Lee recused himself and left the dais.

The applicant was represented by Michelle West of Horsley Witten Group Inc, Project Manager  
Tara Lewis of Horsley Witten Group Inc.  
Nathan Collins, Assistant Engineer TOB DPW.

Exhibit A - power point presentation

- Project will be managed by APCC
- Question raised on time frame of project
- Filed NOI with the hopes grant funding will be available down the road
- Estimated time frame of construction – 2 months
- NOI and storm water drainage report will need to be reviewed by outside consultant prior to closing hearing.

A motion was made to approve the project as submitted, with the continuance date of February 4, 2020, for the sole purpose of reviewing the stormwater report by an outside consultant. Seconded and voted unanimously.

**VIII MINUTES**

A. 11/12/2019

A motion was made to approve the minutes as submitted. Seconded and voted unanimously.

A motion was made to adjourn at 5:44 p.m. Seconded and voted unanimously.

