



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: July 7, 2020 6:30 PM

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.

In accordance with the Governor's Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gathering of More Than 10 People issued on March 24, 2020, the July 7, 2020 meeting of the Conservation Commission shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Conservation Commission utilizing the Zoom link or telephone number and access code for remote access below.

Join Zoom Meeting

<https://zoom.us/j/93851750320>

Meeting ID: 938 5175 0320

888 475 4499 US Toll-free

3. Applicants, their representatives and individuals required or entitled to appear before the Conservation Commission may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Darcy.Karle@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Public comment is also welcome by emailing Darcy.Karle@town.barnstable.ma.us. Comments should be submitted at least 8hrs prior to the hearing.

Roll Call

The meeting was called to order at 6:30 P.M. by Chair Tom Lee and Vice Chair Louise R. Foster and Clerk Dennis Houle were also present along with Commissioners John Abodeely, Larry Morin, George Gillmore, and Pete Sampou.

Conservation Administrator, Darcy Karle, was present.

I. OLD AND NEW BUSINESS

A. Annual election for Conservation Commission.

- Chair - Fat Piu (Tom) Lee
- Vice Chair - Louise R. Foster
- Clerk - Dennis R. Houle

Issues discussed:

- Gratitude was expressed for the officers' service on the Commission.

There was a motion to approve officers as listed for an additional year.
The motion was seconded and voted unanimously.

II. NOTICES OF INTENT

- A. Michael and Joyce Picariello.** Proposed installation and maintenance of a stone patio, stone steps, walkway, native mitigation /restoration plantings and all associated grading and landscaping work at 30 Point Isabella Road, Cotuit as shown on Assessor's Map 074 Parcel 016. **SE3-5796**

The applicant was represented by Jeffrey Johnson of Holmes and McGarth, INC.

Issues discussed:

- There was a question about whether or not all the plants within the 50 foot buffer would be native or if some would be oriental.
- There was a clarification about the measurements of hardscape in relation to the bordering vegetative wetland, but within 50 feet of the state defined coastal bank.
- There was an inquiry about drainage and the stone pathways.
- There was a question about the purpose of the stakes in the stone driveway.
- There was discussion about calculations on the planting plan.
- A concern was raised about work being conducted in the 50 foot buffer.

There was no public comment.

There was a motion made to approve the project as submitted, with a special conditions including the requirement for annual reports on mitigation for 3 years and replacement of any planning that do not survive.

The motion was seconded and voted unanimously.

- B. Amy Powers.** Proposed construction of an in-ground pool with paver patio/apron and wood deck, infiltration basin to collect drainage, perimeter fence at 80 Tansy Circle, Osterville as shown on Assessor's Map 121 Parcel 069. **SE3-5797**

The applicant was represented by Mike Ball of Marsh Matters Environmental.

Issues discussed:

- There was a question about ozone, salt water, and chlorinated pools.
- There was a further inquiry about a mechanical room.
- The elevation of the retaining wall was discussed.

There was no public comment.

A motion was made to approve the project as submitted.

The motion was seconded and voted unanimously.

III. CONTINUANCES

- A. David R. and Anne E. Gergen.** Proposed shorefront protection, and beach nourishment, rock revetment using loose rock onsite at 203 and 210 Scudder's Lane, Barnstable as shown on Assessor's Map 259 Parcel 007-002 and Assessor's Map 259 Parcel 009. **SE3-5789 Continued from 5/26/20.**

There were correspondences written into the record:

- Amy Crouteu, Barnstable Shellfish Constable with Natural Resources, Letter – July 2, 2020
- Brian Taylor, Barnstable Harbormaster, Electronic Mail- June 27, 2020
- Barnstable Waterways Committee, Letter – June 9, 2020
- Barnstable Shellfish Committee, Letter – July 6, 2020

Exhibit A – Photo submitted by Commissioner Sampou of bluff roughly 100 years ago.

The applicants were represented by Nate Jones of Coastal Engineering with Attorney Brian Wall.

Issues Discussed:

- There was a clarification regarding 10.30 (3) and (5), about the language required in the Order of Conditions.
- There was a concern about the absence of a Town of Barnstable license or permission to use the public ramp.
- A concern was raised for commercial and recreation shell fisherman as well as the aquaculture relevant to the impediments caused by the use of the ramp and damage that could be caused. It was noted that this ramp is used extensively. It was negatives were questions about using the public ramp for a private project versus using 211 and then requiring complete restoration of any damage caused to the buffer zone in the process of the project.
- It was questioned whether or not the sand used would be compatible to the natural sand on the beach.
- It was asked how many rocks would need to be moved to complete this project.
- There was a discussion about erosion occurring at the site.
- There was a question about what defines and permits a reconstruction.
- The commission commented that 211 provide a pathway for work to be done on a highly used ramp.
- There was a comment made that there should be an expectation that alteration or even damage will be made on the natural habitat on some time table.
- There was attention brought to analyzing the intertidal and high tidal area along the shore line.
- In March 2018, there were three 100 year historical storm events, according to the city of Boston. It was suggested that the erosion at the site is a direct result of those storm events.
- A commissioner presented his historical analysis of the landscape of Barnstable harbor in relation to erosion overtime.
- It was noted that erosion can happen in one of two ways: wind and/or water. The erosion at this site is from water, but there is a question about whether or not this erosion is from a wave at the base of the bluff or from the top. It was suggested about potential evidence that points to which type of erosion the bluff is experiencing.
- There was detailed discussion regarding the type of erosion and stabilization methods.
- There was discussion about habitation alteration and the worry of degradation.
- It was commented that the high tide would go into the access path at times.
- Both the homogeneous and heterogeneous habitats were commented on. There is a concern for the complex, rich environment becoming more homogenous than heterogeneous due to the proposed work.
- There was concern about the impact of machinery on the habitat above the mean high tide water mark.

Public Comment:

- Mark Begley, commercial shell fisherman, commented on the potential use of the ramp and potential impacts on the ramp. There needs to be a timely repair to the ramp. If there is damage to the ramp, waiting days, weeks, or months could result in an issue to those who use the ramp year round. There was comment regarding the steel plate put on the ramp to protect the ramp. However, those who using the ramp with a boat and/or trailer might slip on the ramp. There was a call to be mindful for the usability of the ramp during work. There should be nothing done to the ramp using would that could jeopardize the use or the time of use of the ramp. Begley thanked the commission for their careful consideration for the application.
- Leslie Wilker- Manfredonia, resident of 89 Scudder's Lane, commented on the impacts from storms on the site that she had witnessed. She was concerned about when the project will be taking place. She uses the beach frequently with friends and family. Therefore, she would like the summer and fall months to be avoided for work. She addressed concern regarding the amount and type of equipment that will be used for the project. She is concerned about the equipment being left on the beach. She understands the applicant's need for property maintenance.
- Gordon Starr, Town Councilor Precinct 1 (Barnstable Village), commented that he has 50 years of familiarity with Scudder's Lane. Councilor Starr commented on the Town of Barnstable's capital improvement budget. There was a \$39 million dollar budget proposal and only approved \$12 million dollars. Therefore, it may be a while for another ramp to be funded. Things will be delayed for a couple years. There is no telling when a ramp will be built. Councilor Starr's concern is with arming the beach. Councilor Starr discussed the history of the site. He discussed that the bluff was created by ocean waves over the course of thousands of years ago.

From his observations over the past 50 years, he states that the hillside has not moved much. The regrading of the lawns would be an option to consider. Councilor Starr believes that the hillside will stabilize again.

A motion was made to have a finding, as it pertains to 310 CMR 10.30 (3), in that the parcel qualifies for a coastal engineering structure, dealing with reconstruction of such buildings subsequent to August 10, 1978. The motion was seconded.

Further discussion took place regarding the difference of a tear down under Chapter 237 vs. 310 CMR (3) requiring the following language to be added to the finding: "this does not bear upon the Commissions buffer zone regulation in regards to razing structures or foundations on a site."

A motion was made to be approved unanimously with one abstention.

A motion was made to approve the project as submitted with the following special conditions: Approval is subject to the applicants obtaining permission from the Town through a license agreement on terms that are in the best interest of the Town as determined by the Town Manager.

The contractor is responsible for the repair of any damage that occurs to the boat ramp. The ramp must function properly on a daily basis.

Any sand placed at the ramp to ease the passage of equipment must be compatible in terms of grain size.

Work shall begin no sooner than September 8th and must be concluded by the end of the day on October 31st.

No work shall take place on Saturday, Sunday, and Town observed holidays.

On Wednesdays no work shall occur from two (2) hours before and then through two (2) hours after low tide.

Rock delivery shall occur as close to high tide as possible.

Rocks shall be delivered on the beach to the left of the boat ramp along the homeowner's property.

No machinery shall operate on the beach/intertidal area to the east of the boat ramp.

No staging of equipment or materials shall occur along the boat ramp, road, or parking areas.

No work shall occur in the salt marsh.

No refueling of machinery on the beach.

The work protocol shall be followed (pages 1-3) with the one change noting Wednesday time restrictions.

Salt marsh shall not be damaged or destroyed. If damaged or destroyed occurs, the applicant shall be responsible to provide a mitigation plan to restore the salt marsh in consultation with Conservation Administrator and Natural Resources.

The Proposed location of where the revetment breaks the elevation of the beach shall be staked in the field by the project engineer conforming to the APPROVED plan. The project engineer/surveyor shall comment in the letter of request for the Certificate of Compliance.

At least two weeks prior to starting any work, a pre-construction meeting on site MUST take place. Site visit shall include the following parties:

- Conservation Agent
- Project Engineer
- Contractor
- Shellfish Biologist or designated shellfish staff member.

The work protocol and condition shall be received again during onsite.

The contractor shall be responsible to take and submit construction photos for pre-, during, and post.

Work limit line of proposed coastal structure shall be staked and maintained at all times.

Material shall not be stockpiled in the intertidal zone.

Revetment rock shall not be stockpiled in the intertidal zone.

Revetment rock shall be natural; no sedimentary type rock shall be permitted.

Revetment stone shall be placed as tightly as possible with each stone touching its neighboring stone. Six to twelve inches stone tailings and/or fractured stone shall be used to tightly fill any gaps between revetment stone. No loose chinking stone will be allowed to remain on wall face. Any loose chinking stone at base of wall or on beach shall be removed prior to completion of job.

Elevation of bottom of toe stone shall be confirmed by the engineer/surveyor for Certificate of Compliance.

Removal of vegetation on bank shall be done in consultation with Conservation staff.

Annual monitoring reports shall be submitted for 3 years.

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

6 Aye 1 Nay

The motion was approved 6 to 1.

There was a five minute break. Roll Call was called to resume the meeting.

- B. Robert P. and Susan G. Schechter, Trustees.** Proposed shoreline protection, soft solution methods and relocation of loose rocks onsite at 211 and 210 Scudder's Lane, Barnstable as shown on Assessor's Map 259 Parcel 008 and Assessor's Map 259 Parcel 009. **SE3-5788 Continued from 5/26/20.**

The applicants were represented by Nate Jones of Coastal Engineering with Attorney Brian Wall.

All correspondences and public comment from the Gergen application apply.

Issues Discussed:

- It was requested that a sketch of the site could be submitted to aid in the motoring of any changes that may occur in slope, demarcation or others.

There was no public comment.

A motion was made to approve the project as submitted applying the same conditions and requirements listed under the Gergen project that would pertain to this site and those read into the record by the Administrator. In addition, adding prior to start of work the proposed top of bank shall be staked.

The motion was seconded and voted unanimously.

- C. Jane McCullough Thompson & Sheila Morgan McCullough.** Proposed shoreline protection, rock revetment using loose rock onsite with matting above, with beach nourishment at 205 and 210 Scudder's Lane, Barnstable as shown on Assessor's Map 259 Parcel 007 001 and Assessor's Map 259 Parcel 009. **SE3-5790 Continued from 5/26/20.**

The applicants were represented by Nate Jones of Coastal Engineering with Attorney Brian Wall.

All correspondences and public comment from the Gergen application apply.

Issues discussed:

- There was a transfer of ownership from McCullough to Grady.
- It was requested that a sketch of the site could be submitted to aid in the motoring of any changes that may occur in slope, demarcation or others.

A motion was made to approve the project as submitted applying the same conditions and requirements listed under the Gergen project that are specific to this location. Also noting the new property owner's name is Grady. Prior to the start of work the proposed top of bank shall be staked.

6 Aye 1 Nay

The motion was approved on a 6 to 1 vote.

- D. Matthew Lehman.** Demolish and replace freestanding garage; demolish and replace rear addition to house at 3760 Main Street, Barnstable as shown on Assessor's Map 317 Parcel 028001. **Request for continuance to 8/4.**

It was noted for the record that this project still does not have a Department of Environmental Protection Number.

A motion was made to approve the continuance to August 4th without testimony.

The motion was seconded and voted unanimously.

- E. Timothy J. and Marla J. Kalkus.** Raze and replace dwelling within the 100 foot buffer zone to the bordering vegetated wetland along Lake Wequaquet at 99 Old Farm Road, Centerville as shown on Assessor's Map 231 Parcel 026. **Continued from 6/23 for Department of Environmental Protection Number.**

A motion was made to approve a continuance until July 21 without testimony.

The motion was seconded and voted unanimously.

- F. **Town of Barnstable Conservation Program.** Proposed implementation of an aquatic management program that includes treatment of aquatic invasives with Sonar at Long Pond, Centerville. **SE3-5778 Continued from 6/23 for the sole purpose of Natural Heritage and Endangered Species Program review.**

A motion was made to approve a continuance to the first session of the afternoon hearing on July 14th with no testimony.

The motion was seconded and voted unanimously.

IV. CERTIFICATES OF COMPLIANCE (ez = no deviations, staff recommends approval)(* = on-going conditions)

- | | | |
|----|--------------------------------------|--|
| A. | Gould SE3-4817 (coc, ez) | construct elevated stairway; vista pruning * |
| | 139 Regency Drive, Marstons Mills | - Mystic Lake |
| B. | Layhe SE3-5672 (coc, ez) | construct addition to single family dwelling * |
| | 4140 Main Street/Route 6A, Cummaquid | - bvw and stream |
| C. | Teague SE3-5560 (coc, ez) | raze & construct single family dwelling * |
| | 6 Commerce Road, Barnstable | - Maraspin Creek |

There was a motion to approve A – C.

The motion was seconded and voted unanimously.

V. MINUTES

- A. June 16, 2020

There was a motion made to approve the minutes as submitted.

The vote was seconded and voted unanimously.

There was a motion to adjourn the meeting.

The motion was seconded and voted unanimously.

The meeting was adjourned at: 9:25 p.m.