



**Town of Barnstable
Conservation Commission**
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MINUTES – CONSERVATION COMMISSION HEARING

DATE: January 12, 2021 @ 3:00 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.

Remote Participation Instructions

The Conservation Commission's Public Hearing will be held by remote participation methods as a result of the COVID-19 state of emergency in the Commonwealth of Massachusetts.

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/95082255116>

Meeting ID: 950 8225 5116

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.

The meeting was called to order at 3:00 p.m. with roll call. Chair Tom Lee was present along with Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Dennis Houle, and John Abodeely. Commissioners Pete Sampou and Larry Morin were absent.

Conservation Administrator, Darcy Karle, assisted along with Conservation Agent Ed Hoopes, and Administrative Assistant, Kim Cavanaugh.

3:00 PM AGENDA

I. EXECUTIVE SESSION

The Barnstable Conservation Commission may vote to go into Executive Session under G.L. c. 30A §21(a) (3) to discuss litigation strategy with respect to the following case: Jack K. Lyons vs. Barnstable Conservation Commission, if the Chair declares that an open meeting may have a detrimental effect on the litigating position of the Town.

CHAIR: Next on the agenda is an Executive Session to discuss strategy with respect to the lawsuit pending in Barnstable Superior Court regarding Jack K. Lyons, File # SE3-4518, 1771CV00393 Barnstable Superior Court.

DECLARATION OF THE CHAIR: I declare that the discussion of litigation strategy in open session with respect to the case of Jack K. Lyons, File # SE3-4518, 1771CV00393 Barnstable Superior Court may have a detrimental effect on the litigating position of the Town.”

“Following the Executive Session, the Commission will re-convene in open session. I recognize the Clerk to make the motion.”

CLERK: I move to go into Executive Session under G.L. c. 30A§21(a)(6) to discuss litigation strategy with respect to the case of Jack K. Lyons, File # SE3-4518, 1771CV00393 Barnstable Superior Court based on the Chair’s declaration that an open meeting may have a detrimental effect on the litigating position of the Town, and to re-convene in open session following the conclusion of the executive decision.”

CHAIR: “I second the motion.”

ROLL CALL VOTE:

Lee	-Aye
Foster	-Aye
Houle	-Aye
Gillmore	-Aye
Abodeely	-Aye
Morin	-Absent
Sampou	-Absent

TIME: 3:07 p.m.

The Commission returned to public session at 3:32 p.m.

II. OLD AND NEW BUSINESS

A. Discussion on Statute of Limitations and property transfer, how it relates to enforcement orders.

Noted

B. Update from David Lager, SumCo. Scudder Lane projects #211, 203, and 205.

Nate Jones from Coastal Engineering and Dave Lager updated the Commission.

- Photographs were reviewed.
- There is erosion from the top going down the bank that needs to be addressed.
- The problem can be addressed from the top of the bank rather than going back over Town property.
- They could remove the 2 cedar trees and cut the bank back a little. The Gergen and Grady plans would need to be revised.
- The planting buffer strip may help resolve the issues once it is put in in the spring.
- Immediate steps need to be taken to stop the erosion.
- A layer of TRM will be installed up over the top of the bank.

A letter from Commissioner Sampou was read into record.

Amy Croteau, Shellfish Constable addressed the Commission There is concern about damage to the shellfish habitat directly below the erosion area. She requested the problem be corrected very soon.

- There should be a deadline to submit a revised plan to correct the problem. The plan should also address planting the area that is on the Town property. Nate can have a plan by the 2/2 meeting.
- There was discussion about diverting the water to a different location,

A motion was made to approve emergency repairs and permanent plan for repairs to be submitted by February 2nd. Seconded and voted unanimously by roll call.

The repairs will be done in consultation with staff.
No vehicles will be parked on Town Property.

C. Update on 85 Main St., West Barnstable enforcement response plan.

Conservation Agent Ed Hoopes reported the homeowner is currently changing consultants and had asked this be continued to February 9th.

The matter was tabled to February 9 2021.

III. REVISED PLANS

Project type:

Revisions:

A. Thomas and Jessica Poti SE3-5404
879 Craigville Beach Rd., Centerville

Demo dwelling, construct
new, upgrade septic

To permit as built

Daniel Ojala, P.E. of Down Cape Engineering represented the applicant.

There were no questions from Commissioners.
A motion was made to approve the revised plan.
Seconded and voted unanimously by roll call.

B. Joan M. Legraw SE3-5433
48 Harrison Rd., Centerville

Driveway reconfiguration
deck and landscaping

To permit as built patio
and drive

John O’Dea, P.E. of Sullivan Engineering represented the applicant.

Commission requested the dimensions of the patio and stairway be put on the plan.

A motion was made to approve the revised plan with dimensions of the patio and stairway added.
Seconded and approved unanimously by roll call.

C. Rachel Lynn Kalin SE3-5810
743 Old Post Rd., Cotuit

Remove existing pool/construct
new pool, patio, landscape
walls

Adjust limit of work
remove 2 trees, update
patio, landscape walls,
steps, stepping stone path
remove invasives and
replant 50’ buffer

John Odea, P.E. of Sullivan Engineering represented the applicant.

- A question was raised on the rationale for removing trees vs. moving work limit line.
- The trees are landward of the 50’ buffer.
- The work limit line now falls exactly at the 50’ buffer.
- The dotted line showing previous 50’ buffer should be removed from the plan.

A motion was made to approve the revised plan subject to the mechanical removal of the invasives should be noted on the plan, a note for 3 year monitoring reports should be put on the plan, Conservation should be notified of who the contractor is going to be subject to staff review and approval.
Seconded and voted unanimously by roll call.

D. Geoffrey and Laura Rehnert SE3-5747
285 Seapuit Road, Osterville

Modify existing pier

To extend kayak ramp.

Arlene Wilson of A.M. Wilson Associates represented the applicant.

- Flow through decking will be used.
- Only the kayak walk is being extended, not the pier.

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

E. Stephen V. Kenney, Turstee SE3-5545 160 Vineyard Road, Cotuit	Gazebo, remove tennis court, construct pool & patio	Rotate pool and eliminate gazebo
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The applicant was represented by John Odea, P.E. of Sullivan Engineering. There were no questions from Commissioners.

A motion was made to approve the revised plan as submitted. Seconded and voted unanimously by roll call.

IV. EXTENSION REQUESTS

Project type:

Time Requested:

A. Oyster Harbors Club SE3-5155 170 Grand Island Rd., Osterville	Maintenance dredging	3 years (1 st request) Tabled from 11/03/20
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There were no questions from Commissioners.

A motion was made approve the extension request. Seconded and voted unanimously by roll call.

V. ENFORCEMENT ORDERS

A. Michael A. Bass, Tr & 986 Sea View Avenue Nominee Trust – 986 Sea View Ave., Osterville – Map 091 Parcel 002. Failure to comply with ongoing conditions of Certificate of Compliance (SE3-1769) and plan of record (DA-19053) – failure to provide lateral access.

Exhibits

- A ARC Reader image showing 986 Sea View Ave., Osterville
- B Site photos
- C Site Photo Showing Vertical Clearance at MHW

John O’Dea, Sullivan Engineering represented, Mr. Bob Davis (homeowner) & Mr. Charles Gadbois, Wellen Construction were present.

Issues discussed:

- The steps providing lateral access over the pier were taken down following storm damage.
- The homeowner would like to provide lateral access via vertical clearance rather than by steps over pier.
- The homeowner’s representative will file a new RDA filing with engineered plan showing the first section of the pier to be elevated to allow for 5’ clearance at MHW by February 28, 2021.
- The existing pier will be removed by February 28, 2021 to provide temporary access.
- The pier will be rebuilt via filing FORM M and construction will be done to specifications in any approved plans.

A motion was made to approve the enforcement order.

Seconded

Roll call

Voted unanimously.

VI. WARNING LETTERS

A. Christian Camp Meeting Association – 915 Craigville Beach Rd., Centerville – Map 225 Parcel 001. Work beyond conditions of a Determination of Applicability (DA-05080).

Issues discussed:

- Property owner will notify Conservation in writing via email at least 24 hours in advance of doing any beach maintenance under DA-05080
- Dingo machinery will operate at least 10' off the toe of the dune
- Dingo machinery will access beach only from the gate on the east side of the property.

A motion was made to approve the warning letter.
Seconded and voted unanimously by roll call.

4:30 PM AGENDA

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REMINDER TO APPLICANTS:

FEEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 200 MAIN STREET, HYANNIS, 02601

VII. NOTICES OF INTENT

- A. **Christopher P. Kaneb.** Proposed renovation to existing dwelling, replacement/reconfiguration of driveway, pool and patio, and the construction of carriage house with all associated appurtenances at 324 Sea View Avenue, Osterville as shown on Assessor's Map 138 Parcel 004.
SE3-5838

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

Issues discussed:

- The carriage house will be used as a 2 car garage with a living room space above it.
- The existing garage will remain.
- There should be some kind of drainage put in along the driveway.
- They are planning to replace the oil heat with gas.
- A question was raised if the location of the draw down pit could be moved further upland. The consultant will look at it and make a revision to the plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan addressing the pitch of the drive way, pool draw down pit location/ design, carriage house drainage, and buffer strip planting.
Seconded and voted unanimously by roll call.

VIII. MINUTES

- A. December 22, 2020

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

A motion was made to adjourn.
Seconded and voted unanimously by roll call.
The time was 5:36 p.m.