



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

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: April 27, 2021 @ 6:30 PM

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Remote Participation Instructions

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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/95344988038>

Meeting ID: 953 4498 8038

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.

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REMINDER TO APPLICANTS:

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

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners John Abodeely, Dennis Houle, Larry Morin and Pete Sampou.

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

I. REQUESTS FOR DETERMINATION

- A. Benjamin Brady.** Vista pruning behind the house and removal of burning bush shrubs from the area near the road by the driveway at 200 Hollidge Hill Lane, Marstons Mills as shown on Assessor's Map 081 Parcel 007. DA-21022

The applicant was represented by Peter Hansen of Hansen Design.

Issues discussed:

- The pruning is within current guidelines.
- Width of vista's is acceptable.
- It was observed during the site visit that the removal of vines in area next to driveway had already been done.
- Revised plan was submitted showing the distance from the resource area dealing with side for the planting of the shrubs and the removal of the vines. The revised plan is dated 4/26/2021.

There was no public comment.

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- B. Thomas and Kristen Roberts.** Remove one fallen pitch pine and one dead pitch pine on the coastal bank. Replace in same location with two seven gallon Eastern Cedar at 871 Seaview Avenue, Osterville as shown on Assessor's Map 090 Parcel 003. DA-21023

There was no representative present at the hearing.

The matter was tabled to later in the meeting.

There were no concerns by Commissioners or staff with the project.

Hearing proceeded without representation.

Issues discussed:

- The stumps should be left in place.

There was no public comment.

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- C. Matthew and Dulcey Connon.** Proposed addition for existing barn, pool equipment and to replace existing fence at 44 Crosby Circle, Osterville as shown on Assessor's Map 116 Parcel 020. DA-21024

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

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the project as a negative determination.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- D. 879 Craigville Beach Road, LLC.** To retain existing rinse station as 879 Craigville Beach Road, Centerville as shown on Assessor's Map 225 Parcel 30. DA-21025

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

Issues discussed:

There were no questions from Commissioners.

There was no public comment.

A motion was made to approve the application as a negative determination.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- E. Joanne Smith.** Replace existing spiral railroad tie staircase to patio with stone steps at 119 Breakwater Shores Drive, Hyannis as shown on Assessor's Map 306 Parcel 154. DA-21026

The applicant, Joanne Smith represented herself.

Issues discussed:

- It is a safety improvement project.

A motion was made to approve the application as a negative determination.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

II. NOTICES OF INTENT

- A. James D. and Nancy E. Montgomery, Trustees.** Remove existing landscape wall and replace with two new retaining walls, grade behind the new wall, plant at toe of both walls, loam and seed all disturbed areas, maintain a 5.6 ft. wide path to the water, well around one tree and prune one tree by the pond at 142 Pond Street, Osterville as shown on Assessor's Map 118 Parcel 100.

The applicant was represented by John Cauley of J.E. Landers-Cauley.

No DEP number has been issued.

- A cutting violation was observed and reported to the Conservation Officer. Some of the smaller trees are now missing. The cutting photos are from 2017.
- In 2013 there was an RDA. No cutting had been done at that time.
- The NOI should be dealt with at this hearing and the violation should be dealt with separately.
- A question was raised regarding who's property the kayak rack is on.
- There is concern that they want to limb the one tree that is still existing.
- The clients did not own the property until December 2020. There is a photo from 2018 which shows vegetated over-story and under-story. The new owners did not realize there was a violation when they purchased the property.
- The path needs to be relocated.
- The existing wall will be torn down and will be extended.
- The existing stairs will be removed and replaced in a different location.

- The construction of the wall will be very delicate because of the steepness of the bank. There should be a construction protocol.
- The height of the wall was discussed.
- The lower wall should be built first. Once the lower wall is built they can put in a new work limit marker.
- The land between the existing and new wall will be less of a slope. It will be planted with indigenous grasses of Cape Cod. A revised plan should be submitted relative to that area.
- Hydrangea are not native species. A selection of shrubs from the natural list and some diversity would be preferred.
- There is nothing to minimize the run-off of water coming down the slope.
- No mention of significant planting below the new wall.
- A structural engineer should design the wall.
- The upper wall has failed and was not constructed properly. Should be an engineer doing the plan. Engineer stamp should be on the design of both walls.
- There needs to be information submitted from the structural engineer, work protocol and planting plan. The planting plan will come into effect during the enforcement order.
- There was discussion of the location of the path and if it should be stairs because of the steepness of the slope.
- Staff recommends steps supported on all three sides with landscape timbers and gravel in between the steps. No more than 4' wide with plantings around.
- The kayak rack should be shown on the revised plan if they desire to keep it.
- The construction protocol needs to include the type of equipment that is going to be used.
- The contractor needs to provide the construction sequence not the engineer.
- A landscape plan will be submitted at the next meeting. The plan should have a note that the 50' buffer would be subject to planting under the enforcement order, and existing cleared areas are to be managed.

There was no public comment.

A continuance was requested to May 25, 2021.

A motion was made to continue the project to May 25, 2021.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- B. **Mian Saeed.** Road construction including drainage and utilities for two lot subdivision at Lots 1 and 2 Wayside Lane, West Barnstable as shown on Assessor's Map 110 Parcels 007 and 007001. **SE3-5873**

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

Issues discussed:

- There should be special condition for monitoring after extreme rain events
- Inspection should be done by an engineer walking the silt fence line and advise the contractor if there is a problem to get it rectified.
- There was discussion regarding follow up inspections after construction. There would be a long term inspection process. Would be an annual review by homeowner. The subdivision rules and regulations would cover it.

There was no public comment.

A motion was made to approve the project subject special conditions to inspection after every rainfall in excess of ¼ inch rain fall until the construction site is stabilized, make the Operating and & Maintenance plan (O&M) for drainage as part of the documentation for long term maintenance of the drainage system.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

C. Mian Saeed. Construction of a single family dwelling at 50 Wayside Lane, West Barnstable as shown on Assessor’s Map 110 Parcel 007. **SE3-5872**

The applicant was represented by Dan Ojala Land Surveyor Civil Engineer with Down Cape Engineering.

Issues discussed:

- The 50’ and 100’ buffer line is difficult to read on the plan.
- The turnaround area with retaining wall needs elevations and driveway grade elevation.
- Revised plan should have a drywell.
- The roadway and the path will be demarcation of the 50’ buffer.
- Beyond the work limit line will be left completely natural.
- There is a small area around the house that will be lawn. A note should be put on the revised plan.
- The 50’ comes very close to the turnaround retaining wall. The wall will need to have elevations on the plan.
- Driveway will pitch towards the drainage easement.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan with the 50 and 100’ buffer line and the drywell locations, adding the notes requested by Darcy (landscaping notes on revised plan), inspections after every rain fall in excess of ¼ inch until the site is stabilized.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

D. Thomas Carvalho. Proposed site and landscape improvements to include foundation repairs, tree removal, stone paths, invasives removal and buffer restoration, and to permit an existing pier at 158 Swift Avenue, Osterville as shown on Assessor’s Map 165 Parcel 083. **SE3-5869**

The applicant was represented by John O’Dea, PE of Sullivan Engineering and Consulting, Tom Carvalho, owner and Seth Wilkinson, Wilkinson Ecological Design.

Issues discussed:

- There was discussion if the existing dock complies with the current guidelines. It is similar in size to others in the area. It is 4’ wide. It is in compliance for the most part. There is no boat launch ramp to the pond. The pier is currently unpermitted.
- A question was raised about the necessity to remove the trees outside the 50’ buffer that are toward the southerly portion and are a long way from the house. After discussion, they will not remove those trees.

- There is a concern that the 4' wide path along the buffer may meander into the buffer. They will do a demarcation along the 50' buffer.
- A question was raised why the largest pine tree near the house is being removed. It may have a nest in it, and is not leaning toward the house.
- Owner stated he is sensitive to the fact that the tree is very large and could come onto the house in a bad windstorm as he is not at the house on a constant basis. He is concerned with the safety of the house.
- The restoration plan establishes a high value habitat. They have accommodated for the removal of the tree. A cedar or holly tree will go in it's place.
- The stumps will remain after cutting. They will be cut flush to the ground.
- Recommendation for a special condition that Wilkinson Ecological will follow the project through unless allowed by staff.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the dimension of posts for the pier, annual monitoring reports for 3 years, Wilkinson Ecological will be the landscape consultant, and change in consultant will need a written notification to the Conservation Administrator, leave the 2 or 3 trees near property line alone, need replacement evergreen trees for the two tall (pine)trees being cut, and a demarcation at 50' buffer line.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

- E. Gregory J. & Julianne P. Pinto, Trustees, JDC Ocean Avenue Realty Trust.** Proposed improvements to dwelling, garage, and site to include new foundation and additions to existing dwelling, proposed patios and walkways, renovation/reconstruction of garage with room above, and all associated appurtenances including landscaping, mitigation, septic upgrade, and utilities at 63 Ocean Avenue, Centerville as shown on Assessors Map 226 Parcel 149. **SE3-5870**

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering and Consulting and Julie and Gregg pinto property owners. Michelle Crowley, Landscape Architect of Crowley and Crottrell, LLC.

Issues discussed:

- Some waivers within the 50' buffer will be required.
- The plan was a 10 scale plan, he will submit a 3rd sheet which is a mitigation plan.
- There are a lot of cement walks around. All the cement will be torn up and taken out.
- Michelle Crowley will not be the consultant for the project. A licensed contractor, CERP will need to be approved by staff.
- Coastal bank (Town and State) should be labeled on the plan.

There was no public comment.

Two emails in support of the project were read into record.

A motion was made to approve the project subject to receipt of a scaled mitigation plan, annual monitoring reports for 3 years, supply the name of certified ecological practitioners to staff for review and approval, and identify and label the Town and Coastal bank.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

- F. Robin Swartz.** Proposed demolition of the existing single-family dwelling and construct a new single-family dwelling with all associated appurtenances at 47 Richard’s Lane, Centerville as shown on Assessors Map 230 Parcel 114. **SE3-5871**

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

Issues discussed:

- A construction protocol should be submitted.
- The site is very tight.
- Should be demarcation of the 50’ buffer.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of a revised plan showing the demarcation of the 50 buffer, and submission of the construction protocol submitted by the contractor,

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

- G. Ronald Welch.** Raze and replace existing dwelling at 173 West Street, Osterville as shown on Assessor’s Map 139 Parcel 002.

The applicant was represented by Peter Hansen.

No DEP number has been issued.

There were no questions from Commissioners

There was no public comment.

A motion was made to approve the project and continue to May 11, for the sole purpose of issuance of the DEP number and any comments.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

III. CONTINUANCES

- A. 979 Old Post Road, LLC.** Proposed pool area modifications including outdoor kitchen and firepit; additions at northeast and south of existing dwelling; landscape mitigation at 979 Old Post Road, Cotuit as shown on Assessor’s Map 074 Parcel 003-005. **SE3-5874 Continued solely for DEP SE3# and any comments from 4/13.**

Represented by Arlene Wilson of Wilson and Associates.

DEP number was issued

Revised plan was received.

There was no public comment.

A motion was made to close the public hearing.
Seconded and voted by roll call:
Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

- B. Ropes Farm, LLC.** Proposed removal and reconstruction of a single-family dwelling and associated site improvements at 135 Putnam Avenue, Cotuit as shown on Assessor’s Map 036 Parcel 040-001. **SE3- 5875 Continued solely for DEP SE3# and any comments from 4/13.**

The DEP number was issued.

A motion was made to close the public hearing.
Seconded and voted by roll call:
Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

- C. Anthony J. & Mary E. Balsamo.** Proposed construction of a pool at 1204 Craigville Beach Road, Centerville as shown on Assessor’s Map 206 Parcel 085-001. **SE3-5868 Continued from 4/13.**

The applicant was represented by Mike Ball from Baxter Nye Engineering

Issues discussed:

- The applicant has agreed to remove as much of the asphalt court as is practical. Much of it is covered by woody vegetation.
- The contractor will roll back the root layer as far as possible using a small machine, (bobcat).
- A temporary access way will be necessary. It will be repaired when the work is done.
- The vegetation will not increase, it will just be spread out more.
- Commission thanked the Balsamo’s for agreeing to remove more of the court.
- They would like to bank 3,933 sq. ft. of mitigation for a future project.
- Revised plan date is April 20, 2021.

There was no public comment.

A motion was made for a finding to bank the mitigation to be used at a later time.

Seconded and voted by roll call:
Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

A motion was made to approve the project using the revised plan dated April 20, 2021.
Seconded and voted by roll call:
Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou
Nay – none

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

- A. Staudt SE3-5067 (coc, ez) management of invasive plants including phragmites *
95 & 117 Eel River Road, Osterville - West Bay

- | | | | | |
|----|---|----------|-----------|---|
| B. | Dacey | SE3-5553 | (coc, ez) | construct pool & cabana * |
| | 85 Oakdale Path, Oyster Harbors | | - | bordering vegetated wetland |
| C. | TOB/DPW | SE3-5574 | (coc, ez) | 3-Bays storm water improvements * |
| | Old Shore Rd., Cordwood Rd., & Prince Av. | | - | Ropes Beach and Cordwood Landing, & Prince Cove |
| D. | Carvalho | SE3-5508 | (coc, ez) | dock & pathway * |
| | 287 Mitchell's Way, Hyannis | | - | Fawcett's Pond |
| E. | MARCHANT | SE3-5211 | (coc, ez) | re-locate driveway & extend culvert * |
| | 424 COMMERCE ROAD , Barnstable | | - | Maraspin Creek |

A motion was made to approve A-E.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

V. MINUTES

A. March 30, 2021

A motion was made to approve the minutes as written.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

A motion was made to adjourn.

Seconded and voted by roll call:

Aye – Lee, Foster, Gillmore, Houle, Abodeely, Morin, Sampou

Nay – none

The time was 8:52 pm.