



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

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: May 4, 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/96647604335>

Meeting ID: 96647604335

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 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. Conservation Administrator, Darcy Karle was present along with Agent Edwin Hoopes. Commissioner Sampou joined at 3:28 pm.

A motion was made to go into the 3:00 pm session.

Seconded and voted by roll call:

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

Nay- none

3:00 PM AGENDA

I CERTIFICATES OF COMPLIANCE

(ez = no deviations, staff recommends approval)

A. HARD-A-LEE, LLC SE3- 5203 (coc, ez) construct single family dwelling (not done)
299 Eel River Road, Osterville - West Bay

A motion was made to approve the COC.

Seconded and voted by roll call:

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

II. REVISED PLANS

Project type:

Revisions:

A. Mark & Amy Lund SE3-5583
48 Starboard Lane, Osterville

Construct SFD, pool,
cabana, vista pruning

Reconfigure plan, addition
of garage

Chuck Rowland of Sullivan Engineering represented the client.

Issues discussed:

- Revised plan date being discussed is 5/4/2021.
- Question if there was any increase in hardscape proposed. The project is actually pulling hardscape away. There is an undisturbed 50' buffer.
- No change in proposed vista corridors.
- Question on drywells. They were identified on the previous plan.
- Question raised is there a jump of 2' in wall elevation?

A motion was made to approve the revised plan subject to a further revision labeling the drywells and confirming top of wall elevation.

Seconded and voted by roll call:

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

Nay- none

B. Brian & Dawn Marie Jadul SE3-5808
180 Vineyard Rd., Cotuit

Construct SFD, pool,
patio, vista pruning

Pull development back 12',
add a sun platform (8 x 20')

Chuck Rowland of Sullivan Engineering represented the client.

There were no issues discussed.

A motion was made to approve the revised plan.

Seconded and voted by roll call:

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

Nay- none

III. EXTENSION REQUESTS

Project type:

Time Requested:

A. COMM Fire District, Water Dept. SE3-5009
0 Old Post Road, Osterville

Construct new pump
station

3 years (1st request)

Scott Simpson of Comprehensive Environmental Incorporated represented client. Craig Crocker, off COMM Fire District Water Dept. was also present.

There were no issues discussed.

A motion was made to approve the extension request.

Seconded and voted by roll call:

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

Nay- none

B. Jason Stone, SE3-5546
183 Bay Shore Road, Hyannis

Install boat lift

3 years **Withdrawn**

IV. ENFORCEMENT ORDERS

- A. Pamela C. Zibutis – 82 Ginger Lane, Centerville – Map 247 Parcel 147. Alteration of the buffer to a wetland resource area – wooded swamp – by piling slash and logs within the buffer and installing and maintaining an unpermitted shed.

Exhibits

- A ARC Reader image of 82 Ginger Lane, Centerville
- B Site photos

Mr. Frank Zibutis represented Ms. Pamela Zibutis .

Issues discussed:

- 82 Ginger Lane is owned by the Town of Barnstable. There is a wetland that occurs on the back portion of the parcel which makes the entire parcel within wetlands jurisdiction.
- The shed/lean-to has been removed from the property and most of the slash and logs have also been removed. Mr. Zibutis asked for an extension to May 7, 2021 to finish removing the last of the slash, which was granted.

A motion was made to approve the Enforcement Order as written.

Seconded and voted by roll call:

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

Nay – none

- B. Stanley M. Hammond & Simone DeCastro – 39 North Precinct Rd., Centerville – Map 148 Parcel 130. Alteration of a wetland resource area – wooded swamp – by cutting trees and of the buffer to a wetland resource area – wooded swamp – by cutting trees. **Tabled from April 6, 2021.**

Exhibits

- A ARC Reader image of 39 North Precinct Rd., Centerville
- B Site photos (Before and After)
- C Existing Site Conditions

Attorney David Lawler represented Mr. Hammond and Ms. DeCastro. Mr. Stanley Hammond was also present.

Issues discussed:

- Mr. Hammond was not responsible for the cutting on the property. All cutting within 100’ of the wetland resource area and in the wetland resource area was done by an agent (Michael Pacheco) working for the neighbor at 49 North Precinct Rd. (Cedalia Pacheco).
- Until the property line is marked, it is not possible to know how many trees were cut on the Hammond/DeCastro property versus what was cut on the adjacent property (Pacheco).
- Since Ms. Pacheco cut trees on both her property (49 North Precinct Rd.) and this property (39 North Precinct Rd.), she will need to coordinate restoration planting and survey work with Mr. Hammonds agent (Attorney David Lawler) who provided Ms. Pacheco with his contact phone number.

A motion was made to issue an amended Enforcement Order naming Cedalia Pacheco as a co-violator.

Seconded and voted by roll call:

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

Nay – none

- C. Cidalia M. Pacheco – 49 North Precinct Rd., Centerville – Map 148 Parcel 131. Alteration of a wetland resource area – wooded swamp – by cutting trees and alteration of the buffer to a wetland resource area – wooded swamp – by cutting trees and placing unauthorized fill (wood chips).

Exhibits

- A ARC Reader image of 49 North Precinct Rd., Centerville
- B Existing Conditions Photo

Natalia Lima represented Cidalia Pacheco.

Issues discussed:

- Ms. Pacheco and her agent Michael Pacheco (Pacheco Landscaping) cut trees on this property and on the abutting property at 39 North Precinct Rd. (Owner Stanley Hammond and Simone DeCastro).
- A concern for lack of understory vegetation on site. There was no understory cut.
- A concern was raised, given the increasing drought conditions in the area, whether it will be possible to delineate the wetland. The wetland resource should be able to be delineated on the basis of plants alone but soils may have to be considered too.

A motion was made to approve the enforcement order as written.

Seconded and voted by roll call:

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

Nay – none

- D. Eva Maria T. Janerus – 3009 Main St./Rte 6A, Barnstable – Map 279 Parcel 050.001. Alteration of a wetland resource area – scrub-shrub swamp – by replacing a pipe without permitting and alteration of the buffer to a wetland resource area – scrub-shrub swamp – by cutting trees and shrubs.

Exhibits

- A ARC Reader plan showing resource areas at 3009 Main St., Barnstable
- B Current Site photos of Pipe Replacement
- C Plan from SE3-1992 showing elevation of existing pipe
- D Photos of some impacted shrubs and trees

Eva Maria T. Janerus represented herself.

Issues discussed:

- The existing concrete pipe was broken and has not been fully functioning for several years.
- The Enforcement Order asks that an engineer determines the invert elevations of the replaced pipe and that if the existing (replaced) pipe elevations do not match the elevations specified in the plan of record for SE3-1992 that the replaced pipe be re-installed to meet the original conditions. The re-installation, if needed would be covered as part of the restoration plan.
- The Commission amended the Enforcement Order to include Drew Baldasaro of Asphalt Solutions Enterprises (who did the pipe replacement work and cut the trees) as a co-violator.
- The Commission amended the Enforcement Order to state that if an engineer determines the replaced pipe in its current location is sufficiently moving the water so as to maintain past hydrologic conditions, that the homeowner be allowed to file a Notice of Intent (after-the-fact) to seek permitting for the replacement pipe.

A motion was made to approve the Enforcement Order as amended.

Seconded and voted by roll call:

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

Nay – Morin

- E. Drew Baldasaro - 3009 Main St./Rte 6A, Barnstable – Map 279 Parcel 050.001. Alteration of a wetland resource area – isolated vegetated wetland – by placing stone fill without a permit and alteration of a wetland resource area - scrub-shrub swamp – by replacing a pipe without permitting and alteration of the buffer to a wetland resource area – scrub-shrub swamp – by cutting trees and shrubs.

Exhibits

- A ARC Reader plan showing resource areas at 3009 Main St., Barnstable
- B Current Site photos and measurements of filled part of wetland

Mr. Drew Baldasaro represented himself and Eva Maria T. Janerus was present.

Issues discussed:

- The Enforcement Order was amended to include the homeowner, Ms. Janerus, as a co-violator.

A motion was made to approve the Enforcement Order as amended.

Seconded and voted by roll call:

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

Nay – none

V. WARNING LETTERS

- A. Jason P. Friehe – 185 Oak St., Centerville – Map 173014002. Alteration of the buffer to a wetland resource area – wooded swamp – by cutting 4 trees.

- Noted

VI. NON-CRIMINAL CITATIONS

- A. Steven Richard, Richards Tree Service – Alteration of the buffer to a wetland resource area \$200.00

- Noted

- B. Drew Baldasaro, Asphalt Solutions Enterprises - Alteration of a wetland resource area \$200.00

- Noted

- C. Cidalia Pacheco, - Alteration of the buffer to a wetland resource area \$200.00

- Noted

4:30 PM AGENDA

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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 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.

A motion was made to go into the 4:30 hearing.

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

Nay- none

VII. REQUESTS FOR DETERMINATION

- A. **Robert Franey.** Construction of a 28’ x 32’ cranberry bog operations storage garage, which qualifies as normal improvement of land in agricultural use (310 CMR 10.4) at 100 Alder Brook Lane, West Barnstable as shown on Assessor’s Map 132 Parcel 010. **DA-21027 \$67.28**

Mike Ball of Marsh Matters Environmental represented the client. Bog owner Robert Franey was also present.

Issues discussed:

- Question raised on fuel storage protection.
- Mr. Franey stated any fuel would be stored in standard fire proof, OSHA approved, 6 gallon fuel cells. This meets all regulations.

A motion was made to approve a negative determination.

Seconded and voted by roll call:

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

Nay- none

VIII. MINUTES

A. April 6, 2021

B. April 13, 2021

A motion was made to approve both sets of minutes.

Seconded and voted by roll call:

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

Abstain – Abodeely

A motion was made to adjourn the hearing.

Seconded and voted by roll call:

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

Nay - none

The time was 4:44 p.m.