



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

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: DECEMBER 14, 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.

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/94799367016>

Meeting ID: 947 9936 7016

US Toll-free 888 475 4499

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**

3:00 PM AGENDA

The meeting was called to order at 3:00 pm by Char F.P (Tom)Lee. Also in attendance were Vice Chair Louise Foster, Clerk George Gillmore, and Commissioners Abodeely, Morin, and Hearn. Commissioner Peter Sampou was absent. Administrator Darcy Karle and Agent Ed Hoopes assisted. Commission Liaison Paula Schnepf was in attendance as well.

I. OLD AND NEW BUSINESS

- A. Sandy Neck Annual Report for 2021 – Nina Z. Coleman, Director of Natural Resources/Sandy Neck Park Manager
- Nina Colman presented the 2021 Sandy Neck Report

- It was a successful year for Piping Plovers with no takes.
- There were good numbers for Diamondback Terrapin.
- Tern productivity remain low.
- Enforcement remained low and revenue bounced back.
- No turtle strandings on Sandy Neck, most likely due to west wind direction.

B. Chapter 704 –review of current language as it pertains to mitigation requirements. Conservation Commission discussion Only

- Chair Lee presented draft language improvements to Chapter 704.
- The changes are for clarification purposes not retroactive. It is not an activity, but to clarify existing practices.
- A question was raised regarding wording of mitigation credit. If hardscape was removed, the area should be planted back and not be considered as mitigation credit.
- Question raised, should the preamble be updated to reflect more recent scientific papers.
- Concern raised of adding additional plants to an existing 50’ buffer.
- Commissions invited to send in additional comments to the Chair for further Commission review prior to public comment on the document.

C. Anderson -100 Bay View Road, Barnstable, discussion and vote on the release of a bedroom restriction. SE3-4710

- Commission voted to remove the bedroom restriction placed in as a special condition under SE3-4710.
- Discussions did take place with the Legal Department.
- Commission lacks jurisdiction to impose it.

A motion was made to remove the restriction subject to the language approved by Town legal counsel.

Seconded and voted unanimously by roll call.

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

Nay –

II. REVISED PLANS

Project type:

Revisions:

A. 710 – 713 Sea View Realty Trust SE3-5883 drainage/walkway 713 Sea View Avenue, Osterville	Porch, rebuild garage, land- scaping, driveway modification	garage placement, driveway reconfiguration
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

A motion was made to approve the revised plan as submitted.

Seconded and voted unanimously by roll call.

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

Nay –

III. EXTENSION REQUESTS

Project type:

Time Requested:

A. Town of Barnstable – Engineering SE3-5043 0 Flume Avenue, Marstons Mills	Replace existing fishway	3 years (3 rd request)
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Amber Unruh, DPW Special Projects, presented the extension request.

Issues discussed:

- Reason for 3rd request.
- NRCS became aware of a possible alternative fish route.

- Alternative analysis is on-going and a pending decision.
- Decision is expected 2022.
- Abutter notification.
- Due to unique situation Commission comfortable allowing 3rd extension.

A motion was made to approve the 3rd extension.

Seconded and voted unanimously by roll call.

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

Nay –

B. EM Crosby Boatworks SE3-5623 178 & 190 Bridge Street, Osterville	Raze SFD, Construct 2-story Commercial Bldg; gravel Parking	3 years (1 st request)
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The applicant was represented by John O’Dea, P.E. of Sullivan Engineering and Consulting.

A motion was made to approve the extension submitted.

Seconded and voted unanimously by roll call.

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

Nay –

C. Tami L. Bane, Trustee SE3-5612 45 Lake Avenue, Hyannisport	Single family dwelling with garage	3 years (1 st request)
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No applicant attended.

- First request.

A motion was made to approve the extension submitted.

Seconded and voted unanimously by roll call.

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

Nay –

IV. ENFORCEMENT ORDERS

- A. Alex P. McKee & Olivia T. Snyder – 59 Seventh Ave., Hyannis – Map 246 Parcel 153. Alteration of a wetland resource area - Coastal Bank (Town) - by installing unpermitted retaining walls and shell driveway and alteration of the 50' buffer to a wetland resource area - Bordering Vegetated Wetland - by installing an unpermitted retaining wall. **Tabled from 11/02/21.**

Exhibits

- A ARC Reader image of 59 Seventh Avenue
- B Before and After Photos
- C Plan of Record DA-20037 & DA-19041
- D Site Photos provided by Lynne Hamlyn

Lynne Hamlyn, Hamlyn Consulting represented the Mr. McKee and Ms. Snyder.

Issues discussed:

- This item was continued from 11/2/21 in order for the Chair and Staff to consult with Town Attorney, at homeowners representatives request, to inquire about alternative permitting possibilities concerning the retaining walls and shell driveway.
- The long-standing policy of the Commission has been for structures within the 50’ buffer that were installed without permit that either the unpermitted structure be removed and the area restored or be permitted with an After-the-Fact NOI filing.

- The homeowners were not responsible for installing the unpermitted structures but under the WPA the violation moves with the title, hence Mr. McKee and Ms .Snyder are considered responsible parties charged with correcting the violation. Ms Hamlyn stated the financial burden of an engineered plan accompanying a NOI filing were extreme given the circumstances.
- Commission and Staff were very sympathetic to the homeowners plight and considered alternatives to filing a NOI.
- The Enforcement Order as written asked for the unpermitted retaining walls and driveway either be removed and area restored or permitted via a regular Notice of Intent (not after-the-fact) which required a stamped engineered plan.
- After much discussion, the Commission amended the enforcement order to either remove the unpermitted structures and restore the area or file a Notice of Intent (Commission to waive the Town portion of the application fee) and a revised, unstamped, hybrid plan showing mitigation planting and the retaining walls and shell drive submitted by Tyler Gaudreau be accepted as the plan of record. Revision to include all resource areas identified and labled, mitigation calculations.

A motion was made to approve the amended Enforcement Order.

Seconded and voted by roll call:

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

Nay – none

- B. David Ryan – 210 Scudder’s Lane, Barnstable – Map 259 Parcel 009. Alteration of a wetland resource area – land under the ocean – by placing fill (crushed stone).

Exhibits

- A Remote Camera Images at Scudder’s Lane Boat Ramp, November 16, 2021 – 12:14 pm – 12:21pm (provided by TOB Natural Resources)
- B Current Site Condition Photo, taken Dec. 10, 2021 @ 1012 h by EMH.

Mr. David Ryan represented himself.

Issues discussed:

- On 11/16/21 a vehicle was photographed dumping a load of stone in the intertidal area below the boat ramp at Scudder’s Lane in Barnstable.
- Early the following morning, the same vehicle observed dumping the stone, was observed repeatedly running back and forth over the stone compacting it into the intertidal substrate.
- The violator was later identified as Mr. Ryan who admitted to doing the dumping.
- Conservation Staff and the Commission believed having the stone removed would cause more environmental impact than the original violation caused.
- DPW just recently received bids for repair and replacement of the boat ramp but no formal plans have been drawn at this time.

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

Seconded and voted by roll call:

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

Nay – none

- C. Frank R. & Nancy M. Selldorff – 102 Bluff Point Drive, Cotuit – Map 034 Parcel 071. Alteration of a wetland resource area – land under the ocean – by operating amphibious vessels beyond the scope of permit conditions. **Tabled to 1/11/2022.**

Attorney Liza Cox, representing the Selldorff's, requested a continuance for this hearing until January 11, 2022. The Chair tabled this item to January 11, 2022.

4:30 PM AGENDA

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MAIN STREET, HYANNIS, 02601**

The meeting was called to order at 5:10 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise Foster, Clerk George Gillmore, and Commissioners Abodeely, Morin, Hearn. Commissioner Pete Sampou was absent. Conservation Agent, Ed Hoopes assisted.

V. NOTICES OF INTENT

- A. Leonard Zon and Lynda Schneider.** Proposed removal and reconstruction of a single-family dwelling and associated site improvements at 360 North Bay Road, Osterville as shown on Assessor's Map 072 Parcel 003. **SE3-5942**

The applicant was represented by Sean Riley of Coastal Engineering Co. Inc. and Seth Wilkinson of Wilkinson Ecological Design, Leslie Schneeberger of SV Design.

Issues discussed:

- Dimensions of building and hardscape should be provided on a revised plan.
- Top of retaining wall elevation.
- Question raised on platform at top of bank. Dimensions should be submitted. Chapter 91 plan indicated it was there in 1989.
- Question on need for two rinse stations. One is just a shower head for the pool.
- Would applicant consider moving project 21' to provide no hard scape in 50' buffer?
- Guest house with garage and sports court going in outside of Commission jurisdiction makes it difficult to pull project back more. There is a grade issue if they move back. Trying to save as many trees as possible.
- Question raised on trees marked. They were marked only for evaluation. Only one cabled tree to be removed, in grade change area near the house.
- Applicant should look into alternative septic system.
- Extra mitigation provided can be banked.
- Written notification will need to be provided if change in landscape contractor- Wilkinson.

No public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the dimensions of the hardscape and platform, and indicating top of retaining wall elevation, any change from Wilkinson Ecological as restoration contractor applicant must contact staff in writing. Special condition for annual monitoring report for 3 years.

Seconded and voted unanimously by roll call.
Aye – Abodeely, Gillmore, Hearn, Lee, Morin,
Nay – Foster

VI. AMENDED ORDERS

- A. Music Box Trust and Wild Goose Trust.** To amend Order of Conditions SE3-5278 to allow paving of the shared driveway at 116 and 118 Wild Goose Way, Centerville as shown on Assessor's Map 167 Parcels 045 and 046.

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

There were no issues raised.

A motion was made to approve the Amended order as submitted.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin
Nay –

A motion was made to adjourn.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin
Nay –
The time was 5:39 pm.