



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

DATE: February 15, 2022 @ 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.

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/92094586395>

Meeting ID: 920 9458 6395

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

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 Abodeely, Hearn, Morin and Sampou.

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

I. OLD AND NEW BUSINESS

A. Commission discussion regarding future conservation hearings – in person or remote.

- Some Commissioners feel they get more information from an in person meeting.
- When there is bad weather it is easier to hold meetings virtually.
- The Town does not have the equipment to do hybrid meetings.

- The zoom format is more inviting to the public.
- Participation of the public has increased significantly since going to Zoom meetings. It allows for people who cannot get out or live off Cape to attend meetings.
- Emails from consultants request to stay Zoom.
- A question was raised about how many Town of Barnstable meetings are currently being held in person. There are not many being held in person.

A motion was made to continue in Zoom until June 15, 2022 and look at the situation again at that time.
Seconded and voted by roll call.

Aye – Abodeely, Foster, Gillmore, Hearn, Lee
Nay - Morin, Sampou

II. REQUESTS FOR DETERMINATION

- A. **Richard F. & Jennifer B. Gallagher.** Replace existing failing timber wall with field stone wall, proposed Vista Corridor, and proposed ornamental shrubs in front of house at 611 Santuit Road, Cotuit as shown on Assessors' Map 007 Parcel 005. DA-22003

The applicant was represented by Raul Lizardi-Rivera of Cape and Islands Engineering.

Issues discussed:

- A standard vista pruning is being requested.
- The shrubs cannot be cut and do not obstruct views from the house.
- The mulch behind the stone wall replacement is within 50' of the top of the coastal bank.
- The 3' behind the wall is where they would like to put mulch. Not the top of the bank.
- It will be a planted mulch bed.
- Would like staff to take into account the topped trees by the prior owner.
- The vista corridor encompasses the trees that have already been cut. The Enforcement Order from last year states there should be no mowing in the 50' buffer.
- The applicant will have to check with staff before any cutting is done.
- The vista pruning must follow the Commission guidelines for vista pruning.
- A question was raised if there could be a modified monitoring report for the wall and the mulching. They could continue the crushed stone instead of mulch. The mulch will help keep the wall in place.
- A monitoring plan is not part of an RDA.

Public comment: There was no public comment.

A motion was made for a negative determination.

Seconded and voted unanimously by roll call.

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

III. NOTICES OF INTENT

- A. **Richard F. & Jennifer B. Gallagher.** Remove existing paved driveway and side overflow parking area, construct and maintain a reconfigured driveway and separate overflow parking of pervious surface. A cobblestone apron will transition from the two main driveway curb cuts onto Santuit Road, with associated grading, utilities and landscaping at 611 Santuit Road, Cotuit as shown on Assessors' Map 007 Parcel 005.

The applicant was represented by Raul Lizardi-Rivera of Cape and Islands Engineering.

Issues discussed:

- DEP has not issued a SE3 number for this project.
- There was discussion on the material of the driveway.
- The walk way in the front will be eliminated. It will be lawn.
- There was discussion on the elevations and which way the driveway will drain.
- The dimensions of the entrance to the driveway should be put on the plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the spot grade on the inside of the driveway and the dimensions of the driveway entrance, with a continuance to March 1st for the sole purpose of receipt of an SE3 number and comments. Seconded and voted unanimously by roll call.

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

B. Eileen M. Ward. Proposed construction of a pool and patio at 203 Bridge Street, Osterville as shown on Assessors' Map 093 Parcel 036 002. **SE3-5954**

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

There were no questions from the Commissioners
There was no public comment.

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

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

C. Margaret Curley. Install and maintain a seasonal pier at 18 Sail-A-Way, Centerville as shown on Assessors' Map 230 Parcel 095. **SE3-5952**

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

Issues discussed:

- There are a number of trees tagged with yellow caution tape that are not part of this project.
- The dock to the east is similar in length.
- The 2" diameter posts as well as the pier will be pulled out in the winter.

Public Comment:

Kris Clark - Asked if the pier would impact the fish run. Representative Dan Ojala stated there should be no impact.

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

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

D. 283 Long Beach Road, LLC. Construction of outdoor kitchen and patio dining area, modifications to existing porch, removal of brick walkway and landscaping at 283 Long Beach Road, Centerville as shown on Assessor's Map 185 Parcel 033. **SE3-5955**

The applicant was represented by Arlene Wilson of A.M. Wilson and Associates.

Issues discussed:

- A breakdown of the mitigation area was submitted earlier.
- A question was raised if there is a planting plan. It will just be grass.
- There should be a label on the plan showing the planting area.

Public comment: There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing the planting area off the proposed deck.

Seconded and voted unanimously by roll call.

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

Nay

- E. Town of Barnstable – Marine & Environmental Affairs.** Off road recreational vehicle management plan for Sandy Neck Beach Park, West Barnstable as shown on Assessors' Map 263 Parcel 001 and Assessors' Map 322 Parcel 001.

Both Town of Barnstable projects were opened at the same time.

The applicant was represented by Nina Coleman, Town of Barnstable Marine and Environmental Affairs.

Issues discussed:

- There was discussion if the Order of Conditions already incorporates the Habitat Conservation Permit (HCP).
- There was discussion on incorporating the terms of the Memorandum of Understanding (MOU) regarding the escort of cottage owners. The cottage owners requested to be involved on the process. They requested the MOU be spelled out in the Order of Conditions. The MOU of 2008 is specific to how many escorts the staff will provide and the opportunity to have escorts outside of those times. As sea level rises access is getting more challenging.
- The HCP is not an easy thing to get. The flexibility is because Nina is doing fantastic management.
- There was discussion on if the HCP takes precedent over the Order of Conditions. The HCP supersedes the Order of Conditions. It provides more lenient management activities.
- There needs to be a continuance for DEP # and NHESP letter.

There was no public comment.

A motion was made to approve the project as submitted subject to the following:

1. Include Special Conditions of the previous Order of Conditions for off road vehicle management plan
2. Include the condition as prescribed in the Habitat Conservation Permit dated March 17, 2017 or latest one, and any future modifications as necessary
3. Incorporate the inclusions of the Memorandum of Understanding between Sandy Neck Colony and the Town of Barnstable dated June 2008.
4. A continuance date of March 15, 2022 for the sole purpose of receipt of the DEP number and NHESP letter.

Seconded and voted unanimously by roll call.

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

Nay

- F. Town of Barnstable – Marine & Environmental Affairs.** Off road essential and guest vehicle management for Sandy Neck Beach Park, West Barnstable as shown on Assessors’ Maps and Parcels 263/001, 303/005, 321/003, 322/001, 339/002, 339/003, 303/006.

The applicant was represented by Nina Coleman, Town of Barnstable Marine and Environmental Affairs.

Issues discussed:

- Included in E. above.

There was no public comment.

A motion was made to approve the project as submitted subject to the following:

1. Include the Special Conditions of the previous Order of Conditions for off road essential and guest vehicles
2. Include the condition as prescribed in the Habitat Conservation Permit dated March 17, 2017 or latest one, and any future modifications as necessary
3. Incorporate the inclusions of the memorandum of the understanding between Sandy Neck Colony and the Town of Barnstable dated June 2008
4. A continuance date of March 15, 2022 for the sole purpose of receipt of the DEP number and NHESP letter.

- G. New Rushy Marsh Realty LLC.** Construction of a new greenhouse and farm workshop, expansion of the existing working garden, and re-grading of a portion of the north field/paddock, at 1541 Main Street, Cotuit as shown on Assessors’ Map 017 Parcel 007.

Continuance requested to March 1st.

A motion was made to approve the continuance request to March 1, 2022 without testimony. Seconded and voted unanimously by roll call.

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

IV. CONTINUANCES

- A. Glen Lane Nominee Trust.** Modification of existing pier by extending fixed section 24’, reusing the existing ramp and turning the end float parallel to the channel at 49 Main Street, Osterville as shown on Assessor’s Map 185 Parcel 020. **SE3-5941 Continued from 1/18/22**

The applicant was represented by Arlene Wilson of A.M. Wilson Associates.

Issues discussed:

- A question was raised which should be prioritized, the shellfish or navigational issues.
- Dredging was discussed. It is not in the purview to discuss dredging. It is not included in the NOI.
- If it is denied the applicant could get a different boat. The boat is currently causing damage to the environment.
- This project could be withdrawn and a new NOI submitted to include dredging.
- Dredging could be denied as well.
- The profile of the area under the boat has changed significantly. Owner assumed the boat he has would have the same draft. The draft is 5” greater than the boat that was originally approved.
- Across from the dock at low tide it is very shallow. The channel is very narrow at that location. Boats would not be able to get by if the dock is extended.

- A separate NOI could be submitted for dredging and this project could be continued to the date the new NOI is heard.
- A question was raised if an amended NOI could be submitted. Abutters would have to be re-notified. Elements from each plan could be considered.
- This project would be continued in order to get the amended Notice of Intent scheduled.

A request for continuance was made to March 29, 2022.

Public comment: There was no public comment.

A motion was made to approve the continuance to March 29, 2022.

Seconded and voted unanimously by roll call.

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

Nay

- B. James P. Donahue and Jennifer A. Belesi Donahue.** To construct a 3.5' x 5' addition, landscape and hardscape improvements to include patio areas, walkways, driveway improvements, vista pruning, and buffer restoration at 56 Harrison Road, Centerville as shown on Assessor's Map 229 Parcel 075. **SE3-5946 Continued from 2/1/22**

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

Issues discussed:

- A question was raised about where the reduction in hardscape is of the patios and walkways. The stepping stone walkways around the house and connecting the patios were removed.
- Two yards of sand is requested as nourishment. The area is not in the wetland and does not contain any endangered plants or species.
- The revised plan date is February 8, 2022.
- There is still a concern about two pathways going down from the house. It should be limited to one.
- The path between the patios could be added back in and only have one path down from the house. The middle walkway has a lot of hardscape on it and should be removed.
- Beach nourishment is done on ocean beaches. Beach nourishment is discouraged on ponds. If it can be clearly shown as a pre-existing beach area the sand could be added.
- There is an aerial photo from 2008 showing the beach.
- NHESP has not finished their review. Will need a continuance.
- Applicant would be willing to take out the center walkway and add the connecting path between the patios.

There was no public comment.

A motion was made to approve the project (subject to receipt of a revised plan) removing center proposed walkway down to the beach and that area will be restored with vegetation. Restore beach without any new sand. And allow for a connecting path from patio to patio,

Modify motion to allow path to beach 36" (4' wide).

Motion was amended. Motion was seconded however before vote was taken. Chair Lee added to the motion a continuance is needed for NHESP response letter.

A question was raised if some amount of sand on beach could be considered.

Motion modified to allow for 3" in cover depth which relates to 1 cubic yard of sand.

Modified motion was seconded to allow for sand as stated above.

Modified motion to allow a Condition to allow a finding to incorporate any additional conditions that come back from NHESP was seconded.

