



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

Office: 508-862-4093E-mail: conservation@town.barnstable.ma.us

FAX: 508-778-2412

MINUTES – CONSERVATION COMMISSION HEARING

DATE: June 14, 2022 @ 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://townofbarnstable-us.zoom.us/j/86822661011>

Meeting ID: 868 2266 1011

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.

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.

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 3:00 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Abodeely, Hearn, and Morin. Commissioner Sampou arrived late.

Conservation Administrator, Darcy Karle was present along with Conservation Agent Ed Hoopes.

3:00 PM AGENDA

I. OLD AND NEW BUSINESS

A. Conservation Restriction – Janet Milkman, Executive Director of BLT – Bowles Field Historic Landscape Project
2.3 acres at 242 Commerce Road, Barnstable Map 318 Parcel 025-001

- Janet Milkman explained the details of the Conservation Restriction.

- Monitoring by Barnstable Land Trust regarding maintenance cleanup will be done.

A motion was made to authorize the Chair to prepare a letter of endorsement to the Town Council.
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Gillmore, Hearn, Lee, Morin
 Nay

Commissioner Sampou joined the meeting.

B. Conservation Restriction – Janet Milkman, Executive Director of BLT – Penn & Bowman at 139 Tonela Lane, Barnstable 1.69 acres, map 336 parcel 023

- Janet Milkman explained the details of the Conservation Restriction.
- A question was raised will there be the ability for the public to walk on the land. There is no public access and no public funding.
- This is a small parcel, there is hope to attain some land to the east and west to add to this project.

A motion was made to authorize the Chair to prepare a letter of endorsement to the Town Council.
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
 Nay

C. In person – Remote - Hybrid Conservation Commission Meetings

- Under the current extension remote meetings will end July 15, 2022. When the State Senate passed the budget there was an extension of remote meetings until December 15, 2023, but the State House did not have the extension clause in their Bill.
- There was discussion regarding if Conservation Commission meetings should be held in person, remote, or hybrid if options become available.

II. REVISED PLANS

Project type:

Revisions:

A. Lisa Rudolph and Oliver Berrett SE3-5580 521 Bumps River Rd., Osterville	To permit existing dock & boardwalk,buffer restoration, land management	Pool area modifications, add spa
--	---	----------------------------------

Matthew Eddy, P.E. of Baxter Nye Engineering and Surveying represented the applicant.

There were no questions from Commissioners.

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

B. Daniel Hostetter/Eagle Trust SE3-5732 Berry Hollow Drive, Marstons Mills	Paving	Excavate below firm layer of peat/swale not draining
--	--------	--

Nick from Atlantic Design Engineers explained the revision.

- A question was asked if they need to remove the entire layer or if they could dig through in just a few areas. The removal would only be within the trench. Drainage wicks were considered but it would not be enough.
- The level of activity and volume of traffic on the road was addressed. There are four homes that use the road.
- The water fills up the swale and it becomes frozen in the winter.
- The road does not need to be raised, it just needs improved drainage.

A motion was made to approve the revised plan as submitted.
 Seconded and voted unanimously by roll call.
 Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou

Nay

- C. Carlton & Christine Sands SE3-5661 Raze & rebuild SFD Mitigation adjustments
4 Bay Shore Road, Hyannis, MA

The applicant was represented by Jen Crawford of Crawford Land Management.

Issues discussed:

- A question was raised on how the need for these adjustments arose. Because of the addition of the revetment the site is very different from when it was initially approved.

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

- D. Carlton & Christine Sands SE3-5811 Revetment Adjustment for fence location
4 Bay Shore Road, Hyannis

The applicant was represented by Jen Crawford of Crawford Land Management.

- The existing evergreen hedge is very large and needs to be removed in order to put in the fence.
- It will be replaced in the same location, in kind.
- The size of the plants needs to be put on the plan.
- There should be a three year follow up.
- The size should be subject to staff approval.
- The number of trees should be noted on the plan.

A motion was made to approve the revised plan subject to submission of the number of trees being removed and locations of the trees being planted, and submission of an annual reports for three years.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay

- E. Kevin McShea SE3-5805 Construct SFD, with patio Landscape amenities
116 Bay Road, Cotuit retainage, landscape, stairs

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

There were no questions from Commissioners.

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

III. EXTENSION REQUESTS

- A. TOB – Conservation SE3-5280 Sonar Treatment to Control 3 years (2nd request)
Mystic Lake & Middle Pond, Marstons Mills Hydrilla

- The funding has been approved.
- Treatment will begin around the first week of July.

A motion was made to approve the extension request.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay

- B. Mass Audubon Society SE3-5712 Construct 1 story building with 3 years (1st request)
345 Bone Hill Road, Barnstable with appurtenances, walkways
and landscaping
Chuck Rowland from Sullivan Engineering represented the applicant.

A motion was made to approve the extension request.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay

- C. Kenneth & Melissa Fish Crane BCC-0198 Dredging 3 years (1st request)
218 Long Beach Road, Centerville

Chuck Rowland, P.E. from Sullivan Engineering represented the applicant.

A motion was made to approve the extension request.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay

IV. ENFORCEMENT ORDERS

- A. Michael F. Schulz, Tr. & 25 East Realty Trust – 25 East Ave., Osterville – Map 139 Parcel 080. Alteration of Land Subject to Flooding – Floodzone – by cutting/removing trees and vegetation without a permit.
- B. Michael F. Schulz, Tr. & 45 East Realty Trust – 45 East Ave., Osterville – Map 139 Parcel 079. Alteration of Land Subject to Flooding – Floodzone – by cutting/removing trees and vegetation without a permit.

Exhibits

- A ARC Reader Image of 25 & 45 East Ave., Osterville
- B Current Site Photos

Chuck Rowland, Sullivan Engineering represented Michael Schulz.

Issues discussed:

- Hearing for 25 East Ave. and 45 East Ave. were opened together so they could both be discussed as one item.
- Both 25 and 45 East Avenue have significant portions of the parcels in floodzone; however, neither parcel is within jurisdiction of any other wetland resource area.
- When first contacted by the Conservation Agent in May, in regards to the possible violations, Mr. Schulz (trustee for the properties) stated the plan had been to combine these 2 lots and an abutting lot at 242 Washington Ave. (permitted for a SFD and septic under DA-22039) into one lot. Future NOI filing's were intended then to permit construction of a tennis court and swimming pool on what is currently the 2 lots at 25 & 45 East Ave.
- As there are no performance standards for floodzone projects the only violation of wetlands regulations was that there was work done without filing a Notice of Intent or Request for Determination of Applicability.
- Given the stated intent of development of the parcels, the Enforcement Order requires the filing of a NOI prior to any further work on these parcels.

A motion was made to approve the Enforcement Order as written.
Seconded.
Aye – Abodeely, Foster, Gilmore, Lee, Morin, Sampou
Nay – none

- C. Edward & Lana Lukatsky – 129 Hayes Rd., Centerville – Map 210 Parcel 095. Alteration of a wetland resource area buffer – Lake Wequaquet – by cutting/removing vegetation. Failure to comply with on-going conditions of 2 Certificates of Compliance (SE3-4731) by not maintaining the mitigation planting area in the 50' buffer and (SE3-2195) for dock configuration.

Exhibits

- A ARC Reader Image of 129 Hayes Rd., Centerville
- B Plan of record rev. 7/11/17 by John O’Dea and COC on-going conditions (SE3-4731)
- C Site Photos
- D Plan of Record SE3-2195 and current dock configuration

Attorney Paul Revere and Chuck Rowland, Sullivan Engineering represented the Lukatsky’s and Mr. & Mrs. Lukatsky were present.

Issues discussed:

- A mitigation planting area was installed as part of a previous filing (SE3-4731) and the on-going conditions stated the mitigation area should be left to naturalize.
- In September 2021 a tree and landscape company cleared a portion of the 50’ buffer to Lake Wequaquet which included the removal of the mitigation area.
- The Conservation Agent and Atty Revere conducted an on-site meeting on May 27, 2022, to discuss the violation. At that meeting the only violations were the removal of the mitigation planting area and cutting within the 50’ buffer and the dock configuration.
- Sometime after that on-site meeting but before the EO was received by the homeowner, there was extensive amounts of sod lawn laid down within the 50’ buffer. Additional hardscape within the 50’ buffer - the east end of the dry laid patio had been replaced with an impervious cemented pad (presumably for a proposed hot tub), stone paths and borders and 2 rinse stations - was added.
- The dock configuration at the water end of the dock has been changed and will need to be reconfigured to match the plan of record for SE3-2195.
- The mitigation area stipulated in the COC for SE3-4731 will need to be replaced under an Enforcement Order Response Plan due by August 2, 2022, for review at the August 9, 2022 meeting.

A motion was made to approve the amended Enforcement Order.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Morin, Sampou

Nay – none

D. Eva Maria T. Janerus – 3009 Main St./Rte 6A, Barnstable – Map 279 Parcel 050.001. Failure to comply with an Enforcement Order.

- This item was Tabled to July 12, 2022

V. WARNING LETTERS

A. Thiago Reis (Forever Green, LLC) – 1865 Phinney’s Lane, Barnstable (for work performed at 121 Sunset Lane, Barnstable) – Map 301 Parcel 031. Alteration of wetland resource area – Coastal Dune – by improperly disposing of storm-deposited wrack.

- Noted

B. Il-Tempo-Se-Ne Vas, LLC 105 Sunset Lane, Barnstable – Map 301 Parcel 029. Failure to comply with an Order of Conditions.

- Noted

VI. CERTIFICATES OF COMPLIANCE

– (ez = no deviations, staff recommends approval) (* = on-going conditions)

- | | | | |
|---|-----------------|-----------|---|
| A. Barnstable DPW | SE3-5689 | (COC, ez) | Stormwater improvements along roadside |
| Putnam Ave, Cotuit / Captain Isiah’s Rd, Cotuit / South County Rd, Osterville | | | |
| Deep marsh / Wooded Swamp / Stream | | | |
| B. David & Mary Mooney | SE3-5940 | (COC, ez) | Renovate existing dwelling w/ additions |
| 122 Annable Point Dr, Centerville | | | |
| Lake Wequaquet / Pond | | | |

A motion was made to approve A. and B.

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

4:30 PM AGENDA

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.

**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 4:30 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.

VII. REQUESTS FOR DETERMINATION

- A. **Giles and Constance Moore.** Title 5 Septic System upgrade at 76 Nyes Neck Road East, Centerville as shown on Assessor's Map 233 Parcel 035. **DA-22021**

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

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 unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou
Nay

VIII. NOTICES OF INTENT

- A. **Joshua and Claire Nelson.** To demolish existing single-family dwelling and construct a new dwelling with all associated appurtenances including a driveway at 150 West Street, Osterville as shown on Assessor's Map 139 Parcel 092.

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- There is an undisturbed 50' buffer.
- There was discussion about the location of the pool fence.

There was no public comment.

No DEP number has been issued. A continuance will be required.

A motion was made to approve the project and continue to July 5, 2022, for the sole purpose of receipt of the DEP number and any comments.
Seconded and voted unanimously by roll call.
Aye – Abodeely, Foster, Hearn, Lee, Morin, Sampou

Nay

- B. **Graham & Lisa Walters.** To demolish existing single-family dwelling and construct a new dwelling with a pool and associated appurtenances at 38 Washington Avenue, Osterville as shown on Assessor's Map 162 Parcel 002. **SE3-6001**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- Darcy will review aerial photos with the Consultant regarding the beach. No prior filings were found in the Conservation data base.
- There are no sizes for the plants. Would like to see some 3- and 5-gallon sizes put on a revised plan.
- There was discussion of the removal of trees shown on the plan. Clarification should be marked on the plan.
- The work limit line was not staked for the site visit.
- The beach area was discussed. A question was raised how it should be shown on the plan as it may be un-permitted.
- Most of the mitigation planting is low in height. Would like to see some vertical complexity in the plants.
- The work limit line should be moved up to the 50' buffer.
- An enforcement order may need to be issued regarding the beach.
- There was lengthy discussion on the permitted/unpermitted sandy beach.
- The aerial view from 2014 shows a beach. The aerial view from 2001 does not show a beach.
- It should noted on the plan that this beach is under further review. The 2007 Assessor's photo does not show a beach.
- The mitigation calculations were reviewed.
- The Order of Conditions could include a condition that the sandy beach is not approved and is under further review.
- Demarcation should be put on the revised plan showing the mitigation area.
- The revised plan should also include the re-location of the work limit line.
- The trees to be removed should also be marked on the revised plan.

There was no public comment.

A motion was made to approve the project subject to receipt of a revised plan showing any tree removal, size of the plantings (subject to staff review), a red label for the beach area indicating it as un-permitted for future review, demarcation for the mitigation area and the silt fence line moved closer to the 50' buffer line.

Seconded and voted unanimously by roll call.

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

Nay

- C. **John A. and Colleen J. Boselli.** Proposed renovation/addition, guest/pool house, pool and all associated appurtenances at 183 Bay Street, Osterville as shown on Assessor's Map 117 Parcel 152. **SE3-6002**

The applicant was represented by Chuck Rowland, P.E. of Sullivan Engineering and Consulting.

Issues discussed:

- The path to the resource area looks really wide. It is a historic path and was permitted under a previous filing. The fencing went in to demarcate the location of the path.
- The shed was also permitted in a previous filing.

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, Hearn, Lee, Morin, Sampou

Nay

IX. MINUTES

A. March 29, 2022

Minutes of the March 29, 2022 meeting were tabled to a later date to verify some information.

B. May 3, 2022

A motion was made to approve B. as submitted.

Seconded and voted unanimously by roll call.

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

Nay

A motion was made to adjourn.

Seconded and voted unanimously by roll call.

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

Nay

The time was 5:45 p.m.