



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: November 1, 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/82559164276>

Meeting ID: 825 5916 4276

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, 230 SOUTH 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 Foster, Clerk George Gillmore, and Commissioners Abodeely, Hearn, and Morin. Conservation Administrator, Darcy Karle was present along with Conservation Agent, Ed Hoopes, Conservation Assistant, Emil Assing, and Administrative Assistant, Kim Cavanaugh. Commissioner Sampou was absent.

3:00 PM AGENDA

I. EXTENSION REQUESTS

- | | | |
|--|--|----------------------------------|
| A. Nicholas & Millie Coppa SE3-5586
195 Bunker Hill Rd., Osterville | Site improvements, pool patio
sports court, fire pit, spa | 3 yrs. (1 st request) |
|--|--|----------------------------------|

The applicant was represented by Sean Reilly, P.E. of Coastal Engineering Company.

- There were no questions from Commissioners.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call.

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

- B. Slow Marsh One Nominee Trust Demo SFD/Construct new SFD 3 yrs. (1st request)
1462 Main St., Cotuit **SE3-5638** & detached garage

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

- There were no questions from Commissioners.

A motion was made to approve the extension request.

Seconded and voted unanimously by roll call.

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

II. ENFORCEMENT ORDERS

- A. Olga Shemanyuk, Tr. AND Trout Hill Realty Trust - 30 Lauren Dr., Marstons Mills – Map 101 Parcel 062. Alteration of the buffer to a wetland resource area - Bordering Vegetated Wetland (BVW) - by placing hardscape (rocks) within the 0' -100' buffer (not in compliance with the plan of record for SE3-5814).

Exhibits

- A ARC Reader Image of 30 Lauren Dr., Marstons Mills
B Plan of Record for SE3-5814 by Andrew Garulay dated rev. Sept. 3, 2020
C Before and After Site Photos

Andrew Garulay represented Dr. Shemanyuk. Dr. Shemanyuk was present.

Issues discussed:

- This was a major deviation from the plan of record.
- The rocks were added in October 2020 after the initial, approved work started and during which period the ground was disturbed. A significant storm occurred which inundated the site with heavy rainfall causing significant erosion to the sloped areas on site.
- The landscape contractor convinced the homeowner to allow the placement of the stones as a means of controlling the erosion but no consultation with Conservation staff was made nor were any plan revisions seeking the changes brought before the Commission.
- There was some concern expressed among the Commission about leaving any rocks within the 50’ buffer. Also want to ensure the area between the mitigation planting and top of slope is left to regrow naturally and not mowed.

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

Seconded.

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

Nay – none

- B. Philip B. & Mary Ellen Nelson, Trs. & Mary Ellen Nelson Rev Trust – 90 Harbor Point Rd., Barnstable – Map 352 Parcel 001. Alteration of a wetland resource area - Salt Marsh - and the buffer to wetland resource areas - Salt Marsh, Bordering Vegetated Wetland and Coastal Beach - by installing and maintaining an unpermitted boardwalk.

Exhibits

- A ARC Reader Image of 90 Harbor Point Rd., Barnstable
- B Before and After Site Photos
- C Current Site Photos

Mike Ball, Marsh Matters represented the Nelson’s and Mr. & Mrs. Nelson were also present.

Issues discussed:

- The path from the upland through the BVW and Salt Marsh resource areas out to the beach has been in existence and maintained in its current position since before 1968. The wooden foot bridge also has existed in the same position since the 1960’s as well.
- The wooden walkway was placed and maintained on the existing path sometime around 2013-2014.
- At the time of the initial field visit, the homeowners were advised by the Conservation Agent that the path width may not exceed 4’ as it relates to cutting of vegetation.
- The homeowners will seek to permit the wooden walkway in some form by filing a NOI.
- There is an extra layer of review since the project locus is within an ACEC.

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

Seconded.

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

Nay – none

- C. Graham Robert & Lisa C. Walters - 38 Washington Avenue, Osterville – Map 162 Parcel 002. Alteration of the buffer to a wetland resource area - Crystal Lake and Bordering Vegetated Wetland - by maintaining an unpermitted beach.

- This item was tabled to December 13, 2022 to allow a newly hired attorney time to review the file.

Warning Letters

- A. Suzanne Lissy – 414 Baxters Neck Rd., Marstons Mills – Map 075 Parcel 033. Failure to request a Certificate of Compliance for SE3-5141

- Noted

III. CERTIFICATES OF COMPLIANCE – Tabled from 9/27/22

(ez = no deviations, staff recommends approval)

(* = on-going conditions)

A.	SE3-5432	Edward P. Costa	(COC, denial)	Pool, Patio, Pool Coastal Bank
	Apron, Retaining Walls		65 Starboard Lane, Osterville	
<hr/>				
B.	SE3-5938	Nicholas Lagadinos	(COC, ez)	Garage & Patio
	13 Thankful Lane, Cotuit		BVW	
C.	SE3-5878	Vincent Isernio	(COC, ez)	Access Stairs / Sitting Hamblin Pond
	Area on Pond Bank	40 Lauren Drive, Marstons Mills		
D.	SE3-4974	Vince Defelice	(COC, ez)	Raze / Replace SFD Intermittent stream / BVW
	2641 Main Street, Barnstable			

A motion was made to approve A. - D.

Seconded and voted unanimously by roll call.

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

Nay

4:30 PM AGENDA

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FEES FOR LEGAL ADS ARE LISTED BELOW. PLEASE MAIL CHECKS TO CONSERVATION, 230
SOUTH 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 Foster, Clerk George Gillmore, and Commissioners Abodeely, Hearn, and Morin. Commissioner Sampou was absent.

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

IV. NOTICES OF INTENT

- A. William and Ann Leblanc.** Replacement of invasive plants and minor vista pruning at 276 Holly Point Road, Centerville as shown on Assessor's Map 232 Parcel 029. **SE3-6043**

The applicant was represented by Phil Cheney Landscape Designer.

Issues discussed:

- Revised plan dated 10/31/2022 was submitted.
- The invasives will be removed by hand. Some bittersweet may need the cut and swipe method for removal.
- There should be monitoring reports for three years submitted.
- Ongoing invasive treatment is also being requested.
- There should be a condition that Conservation staff be notified of the name of the contractor.

There was no public comment.

A motion was made to approve the project as submitted with ongoing invasive removal allowed, must be a licensed applicator if chemical usage, Conservation Staff to be notified of contractor, monitoring reports for three years.

Seconded and voted unanimously by roll call.

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

Nay

V. CONTINUANCES

- A. Washington SGG Nominee Trust.** Proposed improvements to include a pool, pool house, tennis court and driveway at 242 Washington Avenue, Map 138 Parcel 030, 25 East Avenue, Map 139 Parcel 080, and 45 East Avenue, Osterville Map 139 Parcel 079. **Continued from 10/25/22.**

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

Issues discussed:

- Land subject to coastal storm flowage is the reason for needing Conservation approval.
- Single family homes have already been approved by the Commission to be built on this site under SE3-5359 and SE3-5360.
- The final grading of the area was discussed.

- The depression to the right of the driveway appeared to be much deeper before the development started. Fill has been added and will be put on the revised plan.

Public comment:

Garret Tunison – Consultant spoke on behalf of the abutters regarding the flood zone. There is concern that the vegetation has already been removed. Based on the topography, water is accumulating on the site and is not draining out. Concerned about flooding and alteration of the existing flood zones, and how it will impact the neighbor's.

Continued discussion:

- This is for a pool and tennis court. DEP may ask for storm water reports.
- An SE3 number has not been issued yet.
- The property is two blocks away from Nantucket sound. The properties surrounding are higher.
- They will be addressing the drainage. They are the low point in the area.
- The elevations were discussed further.
- The concern is the flood zone. There are no performance standards for the coastal storm flowage. The stormwater has to stay on site and cannot drain onto other sites.
- There are no drywells on the plan.
- The stormwater standard does not apply if you have less than four lots.
- The project is approvable under Conservation jurisdiction.
- There is no evidence of rain water run-off.
- There was further comment from Garret Tunison.
- The drainage system still needs to be designed.
- Rainstorm drainage will be addressed in the design.
- Garret Tunison feels there could be an adverse impact to the neighbors.

A continuance was requested to 11/22 for issuance of an SE3#.

Public comment (continued):

Jamie Jones 26 Washington Avenue - abutter. The back yard is already moist. Additional water has occurred just recently. Sea View Avenue is not far away. There is a home nearby with a very low grade. They live next door. A serious storm will allow water to run down Washington Avenue into the neighborhood.

Beth Sullivan - 216 Washington Ave. Her property is near the tennis courts. The water stays there after rain. She is concerned when the tennis courts are done it will be higher than her back yard and the water will rush onto her property.

Garret Tunison addressed the Commission again regarding the neighbor's concerns.

A motion was made to approve the project subject to receipt of an as built plan (addressing current grades) with a continuance to November 22, 2022 for the sole purpose of receipt of the DEP number and DEP comments.

Seconded and voted unanimously by roll call.

Aye – Abodeely, Gillmore, Hearn, Lee

Nay - Morin

Foster - abstain

- B. **Herlihy Family Limited Partnership.** To permit existing shed, proposed fencing, pond wall repairs and buffer land management and restoration at 103 Blantyre Avenue, Centerville as shown on Assessor's Map 229 Parcel 008. **SE3-6040 Continued from 10/25/22 for NHESP only.**

NHESP letter was received and read into record.

A motion was made to close the public hearing and authorize staff to issue the order of conditions subject to receipt of a revised plan showing the planting change requested by NHESP

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 5:29 p.m.