



# Town of Barnstable Conservation Commission

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## MINUTES – CONSERVATION COMMISSION HEARING

**DATE: March 28, 2023 @ 6:30 PM**

### **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/88108229953>

**Meeting ID: 881 0822 9953**

**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](mailto: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](mailto: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.

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, Morin and Sampou. Commissioner Hearn arrived at 6:38 p.m.

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

### **I. OLD AND NEW BUSINESS**

- A. Vote of the Conservation Commission – Art. 97 legislation to approve reconfiguration of a small part of Mother's Park, 20 Phinney's Lane, Centerville, Map 209 Parcel 047.

Attorney Charles McLaughlin Sr. Council for the Town of Barnstable described the reconfiguration and explained the Article 97 policies.

Issues discussed:

- There was discussion on the improvements being made.
- There is one abutting property owner that will have driveway access.

There was no public comment.

A motion was made that the Barnstable Conservation Commission concurs with and endorses the Town Manager's declaration that a portion of the surface of Mother's Park shown on a plan of land entitled " Roadway Alteration Plan, Mother's Park 20 Phinney's Lane, Village of Centerville, Barnstable, Massachusetts", shown as "Parcel A", as prepared by Town of Barnstable, Department of Public Works, dated 2/23/23, which land is under his custody and control, is surplus to the municipal, conservation and open space needs of the Town of Barnstable and should instead be dedicated to general municipal purposes in order to enhance pedestrian and automotive safety. Therefore, the Barnstable Conservation Commission unanimously endorses and approves that declaration.

Seconded and voted unanimously by roll call.

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

Nay

## **II. REQUESTS FOR DETERMINATION**

- A. John and Karen Guarco.** To permit and maintain the expansion of an existing patio and the construction of a new patio at 141R Estey Avenue, Hyannis as shown on Assessor's Map 306 Parcel 198. **DA-23020**

The applicant was represented by Lynne Hamblin.

Issues discussed:

- The RDA was filed as a result of an Enforcement Order.
- A question was raised if there could be any mitigation offered for the project.
- Mitigation is not required under an RDA.

Public Comment:

David S. Reid, Esquire submitted an email at 5:00 pm. The email was read into record.

A motion was made to approve the application as a negative determination.

Seconded and voted unanimously by roll call.

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

Nay

- B. Gloria Gilbert.** To upgrade existing septic system to a Title V. approved system at 190 Plum Street, West Barnstable as shown on Assessor's Map 196 Parcel 022-002. **DA-23021**

The applicant represented herself.

Issues discussed:

- Part of the current system is on someone else's property.
- That portion of the system will be abandoned.

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, Gillmore, Hearn, Lee, Morin, Sampou

Nay

- C. Fred and Barbara Jenkins.** Remove existing concrete slab, pour new foundation and erect a 25' x 40' steel building for agricultural use at 36 Rosa Lane, Marstons Mills as shown on Assessor's Map 060 Parcel 004-004. **DA-23022**

The applicant was represented by Steven Bobola from Sandollar Customs.

Issues discussed:

- The new building is smaller than the existing building.
- It will be in the same location.
- The concrete removed will be recycled.
- The new foundation will be 48" below grade.
- Hay bales will be needed for extraction.
- This is an agricultural exemption.
- The area meets the exemption under agricultural use.

There was no public comment.

A motion was made to approve the project as a negative determination. A silt fence will be placed around the construction area.

Seconded and voted unanimously by roll call.

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

Nay

- D. Richard and Anne Segerson.** Proposed pool, pergola, firepit, fence, driveway adjustment, and landscaping at 21 Cockachoisett Lane, Osterville as shown on Assessor's Map 116 Parcel 008. **DA-23023 Withdrawn**

The applicant has withdrawn the application without prejudice.

- E. Town of Barnstable – DPW.** Repair Blish Point Boat Ramp, including scaling, spalling, cracks, joints and curbs above the mean low water line at 307 Mill Way, Barnstable as shown on Assessor's Map 301 Parcel 064. **DA-23024**

The applicant was represented by Matthew Wrobel from Town of Barnstable - DPW

Issues discussed:

- A question was raised who gets the money collected from users of the boat ramp.
- Representative believes some of the money goes to the State and some to the Town but will confirm.
- A grant for \$25,000 was received for these repairs.
- The final cost of the repair should come from collected funds.
- There was discussion on how the repairs will be made.
- Damaged concrete will be removed and replaced as needed.

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, Gillmore, Hearn, Lee, Morin, Sampou

Nay

Matt Wrobel requested contact information for Commissioner Sampou to answer funding questions.

### **III. NOTICES OF INTENT**

- A. **Robert Willett.** Proposed construction of a deck and associated stairway access at 31 Paine Avenue, Hyannis as shown on Assessor's Map 289 Parcel 119-001. **SE3-6078**

A continuance was requested to April 25, 2023 without testimony.

A motion was made to approve the continuance request to April 25, 2023 without testimony  
Seconded and voted unanimously by roll call.

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

- B. **Benjamin A. Gomez & Susan W. Cable** Proposed plant community establishment in existing view corridor at 1664 Main Street, Cotuit as shown on Assessor's Map 017 Parcel 016. **SE3-6077**

The applicant was represented by John O'Dea, P.E. of Sullivan Engineering and Consulting and Ian Peach from Wilkinson Ecological Design.

Issues discussed:

- Email from Agent Ed Hoopes requesting height diversity was discussed.
- The types of plantings and sizes were reviewed.
- Continuing vista pruning going forward will be limited lateral thinning of the trees.
- Pruning would follow the standard vista pruning guidelines.
- Vista pruning should require consultation with staff.
- Almost the entire length of the property is the view corridor.
- There was discussion on types of plants and height diversity. High bush blueberries can reach up to 8 feet.
- Vista pruning will be reviewed annually.
- The size of the vista corridor was reviewed.
- The goal of the project is to change the vegetation so that it will be self sustainable rather than needing pruning twice per year.
- The addition of some cedar trees was requested.
- An onsite visit with staff could be done.
- The plant material being brought in is appreciated.
- There is a problem with the way things have been managed at this site in the past.
- The project as proposed has been well done.
- The order could be conditioned with approval from staff for the location of some cedar trees.
- 3 year monitoring reports will be needed.
- Wilkinson Ecological is the consultant for the project.
- Any vista pruning will be in consultation with Wilkinson Ecological.
- A revised plan could be submitted for the cedar trees if needed.
- An oak tree should not come down to make room for a cedar tree.

There was no public comment.

A motion was made to approve the project subject to staff to review of the vista pruning, to meet with staff before the contractor does vista pruning, Wilkinson is the contractor and change in contractor require approval from staff, annual monitoring reports for 3 years, prior to completion of the plan will have to get staff approval of the cedar trees, if staff does not agree it will come back to the Commission.

Condition changed to. Commission would like Wilkinson to review with staff whether or not there is potential to add 2 cedar trees. If an agreement cannot be reached, it would have to come back to the Commission.

Seconded and voted unanimously by roll call.

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

**C. Kurt Raber, Catalyst Architecture/Interiors.** Proposed attached garage, guest cottage, and associated site work at 151/155 Irving Avenue, Hyannisport as shown on Assessor’s Map 287 Parcel 068. **SE3-6079**

The applicant was represented by Hannah Raddatz and Brian Yergatian from BSC Group and Kurt Raber from Catalyst Architecture.

Issues discussed:

- The work will be done on two parcels with the same owner.
- The proposed retaining wall heights were reviewed.
- The septic systems require adding bedrooms that need to be filed with the Health Department.
- The size of the septic system was reviewed.
- An I/A system should be considered.
- It is a significant expense to do an I/A system.
- Representative was asked to suggest an I/A system to the owner.
- This is an important issue and should seriously be considered as this is a very large project. There are 16 bedrooms.
- The additional cost as a percentage to the total cost of the project should be considered.
- The septic system is being moved further away from the resource area.
- Some of the new I/A systems do not require annual maintenance.
- They will consider I/A systems.
- The owner addressed the Commissioners.
- Only 7 of the rooms are actually bedrooms. Use is at peak for only 2 weeks per year.
- He would consider just adding a new system for the guest house instead of replacing the entire system.
- The system should be reviewed by the Board of Health.
- Nitrogen runs right through the septic system right to the ocean.
- Phosphorus takes time to move through. Moving it back away from resource area would be beneficial for phosphorus.
- This is a seasonal use property.

Joe Wood, abutter at 165 Irving Avenue. A big rain storm turned the area shown as #7 on the plan into a large pond. This would be increased by this project. There a large flow of water into their crawl space. Mr. Wood asked if this project will make this situation worse or better.

Representative Brian Yergatian explained stormwater that would normally flow to the property will be intercepted. It will be diverted and there will be less water flowing than it does now. The size of the lake will be smaller after the project is complete. The new system is lower than their home. The driveway is sloping.

Sam Wilson abutter/owner of lot #5. Mr. Wilson is in support of the plan. It is a seasonal use property.

A motion was made to approve the project as submitted asking the owner to consider an I/A system.  
Seconded and voted unanimously by roll call.  
Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou  
Nay

#### **IV. CONTINUANCES**

- A. **Angela Hahn.** Construct and maintain 4' brushed footpath; bank access stairs; pile supported dinghy dock with 3' x 12' ramp, 8' x 12' float and kayak racks; vegetative maintenance and understory plantings at 150 Bay Road, Cotuit as shown on Assessor's Map 007 Parcel 018. **SE3-6071 Continued from 2/28/23 NHESP letter received. Form WC received. Continuance requested to 4/25 WC Form received.**

A continuance was requested to 4/25/2023 without testimony.

A motion was made to approve the continuance request to April 25, 2023 without testimony.

Seconded and voted unanimously by roll call.

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

Nay

- B. **Tina Haseotes.** Install in-ground pool and adjoining patio at 773 South Main Street, Centerville as shown on Assessor's Map 185 Parcel 013. **SE3-6072 Continued from 2/28/23. WC Form received.**

Commissioner Hearn is not part of the quorum.

The applicant was represented by Matt Eddy, P.E. of Baxter Nye Engineering and Consulting and Attorney Eliza Cox of Nutter, McLellan, and Fitch.

Attorney Cox addressed the Commissioners. The current owner did not own the property at the time of the Enforcement Order in 2018.

Attorney Cox reached out to Attorney Gill who represents the abutter on the west side of the property.

Their concerns are zoning related. They are hoping to address their concerns.

Attorney Cox believes this is an improvement to the current conditions.

The project can only be reviewed under Conservation jurisdiction, not zoning.

Issues discussed:

- The strip of mitigation added at the top of the bank is appreciated.
- The pool will replace lawn. There are very few trees on the site.
- A couple of trees on the top of the bank are suggested.
- The view would not be totally impacted if a tree were added to the end of the mitigation area.
- The landscape bed could be expanded.
- The representative feels they have exceeded the mitigation policy.

Public Comment:

Attorney Michael Gill – representing the abutter at 789 South Main Street.

The abutter has concern that their hedge is in jeopardy of the root system being disturbed by the addition of the pool. The Order of Conditions from 2019 is still outstanding. There is no COC. The COC from the dock has ongoing conditions. The Commission should make sure they are complete.

Commissioner comments continued:

- If the trees on the abutter property die, they can seek relief.
- Conservation Commission does not have jurisdiction to order damages.
- The pool is 3-4' lower than the hedge with a retaining wall between and a chain link fence between the property edge. There should be no problem with damage to the hedge.
- The hedge offers privacy to the applicant as well.
- The pool is only going to be 4' deep.
- The wall will be sheeted and will minimize any impact.
- A date the final planting plan and COC request for the open OOC is needed.
- A special condition could be added for a COC request be submitted within two months.

A motion was made to approve the project subject to receipt of the COC request and final annual report for prior order, along with a revised plan showing demarcation of the new mitigation area.  
Seconded and voted unanimously by roll call.  
Aye –Abodeely, Foster, Gillmore, Lee, Morin, Sampou  
Nay

C. **Stephen M. & Beth F. McParland.** To amend the order of conditions to allow for removal of invasives from an additional area along the bulkhead at 150 Carriage Road, Osterville as shown on Assessors Map 071 Parcel 015-003. **SE3-5856 Continued from 2/28/23. WC Form received.**

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

Issues discussed:

- Staff supports the project.
- Monitoring reports should be submitted annually for 3 years.
- Follow up on enforcement will be done by staff if needed.

There was no public comment.

A motion was made to approve the project as submitted subject to receipt of annual monitoring reports for 3 years.  
Seconded and voted unanimously by roll call.  
Aye –Abodeely, Foster, Gillmore, Hearn, Lee, Morin, Sampou  
Nay

**V. CERTIFICATES OF COMPLIANCE –**

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

- |                    |                                       |           |   |
|--------------------|---------------------------------------|-----------|---|
| <b>A. SE3-5890</b> | <b>Thomas &amp; Rosemary O’Keeffe</b> | (COC, ez) | Construct a Retaining Wall                  |
|                    | 22 Clamshell Cove Road, Cotuit        |           | Shoestring Bay / Salt Marsh / Coastal Beach |
| <b>B. SE3-5891</b> | <b>Paul Thompson</b>                  | (COC, ez) | Construct a Retaining Wall                  |
|                    | 36 Clamshell Cove Road, Cotuit        |           | Shoestring Bay / Salt Marsh / Coastal Beach |
| <b>C. SE3-5622</b> | <b>Jane Ward &amp; Steven Waller</b>  | (COC, ez) | Driveway & Septic Redesign                  |
|                    | 125 Blantyre Avenue, Centerville      |           | Long Pond, Herring Run, & BVW               |

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

**VI. MINUTES**

- A. February 7, 2023
- B. February 28, 2023
- C. March 7, 2023
- D. March 14, 2023

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

A motion was made to adjourn.

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

The time was 9:11 p.m.