



Town of Barnstable Conservation Commission

230 South Street
Hyannis Massachusetts 02601

Office: 508-862-4093

E-mail: conservation @ town.barnstable.ma.us

MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 17, 2023 @ 6:30 PM

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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 live via Xfinity Channel 8 or high definition Channel 1072. It may also be accessed via the Government Access Channel live stream on the Town of Barnstable's website: <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/85655483784>

856 5548 3784

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.

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, Sampou and Tangney.

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

I. NOTICES OF INTENT

- A. Stuart R. Levey, Trustee – 408 Wianno Avenue Nominee Trust.** To construct a proposed pool, patio and cabana area, proposed renovations of existing garage to include ground and second floor additions, breezeway connection to dwelling, and a sports court at 408 Wianno Avenue, Osterville as shown on Assessor's Map 140 Parcel 154-002. **SE3-6130**

A continuance without testimony was requested to 10/31/2023.

A motion was made to approve the continuance without testimony to 10/31/2023.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

II. CONTINUANCES

- A. Graham R. & Lisa C. Walters.** To construct a pier, permit existing sandy area and to rebuild a retaining wall at 38 Washington Avenue, Osterville as shown on Assessor's Map 162 Parcel 002. **SE3-6128 Continued from 10/03. WC Form received.**

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

The revised plan is dated 10/17/2023.

Issues discussed:

- The revised plan was reviewed.
- This will be a seasonal pier.
- There is 365 sq. ft. of sand.
- There is 663 sq. ft. of proposed mitigation plantings.
- There was discussion about other beaches in the area.
- This sandy area is set back.
- There is not a 4:1 mitigation being offered because this is not hardscape. It has been sand for at least two owners prior to this one. The enforcement order required them to request approval for the sandy area or remove it.
- It was noted at the site visit that sand has washed into the pond.
- The applicant's plan is to retain the sand with a retaining wall and put a buffer between the sand and the pond.
- The grading of the sand has been lowered so it will be 3" below the retaining wall.
- After this project is complete no sand will be leaching into the lake.
- There was discussion about regulations allowing for a sandy beach area being allowed if it has been there historically and pre-dated the regulations vs. sand being added without permission and hiding it long enough (through several sales of the property) so that it can be "considered" historic and allowed.
- There was discussion about this plan being better than what is there now.
- If the sand is not approved, and they put in grass, it would not be an improvement. This is an improvement to what is there now.
- Demarcation of the mitigation strip needs to be added to the plan.
- It was noted at the site visit that there was a lot of mulch in the prior mitigation area. No more mulch should be added.
- Annual reports are needed for three years.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan showing the demarcation line and annual reports for three years.

Seconded.

Aye – Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

*Agenda items were taken out of order. C. Continuance for 20 Scallop Path was taken next.

- B. New Rushy Marsh Realty LLC.** Construction of a patio adjacent to the existing cabana including work and mitigation planting inside the 100 foot buffer zone at 1500 Main Street, Cotuit as shown on Assessor's Map 017 Parcel 014. **Continued from 10/03 WC Form received. SE3-6134**

The applicant was represented by Sean Reardon of Tetra Tech.

The revised plan is dated October 16, 2023.

Issues discussed:

- The revised plan was reviewed.
- The Town Bank and the State Bank lines were reviewed by the Chair.
- The discretionary dune restoration is part of the proposal.
- The work proposed is in the State bank but not the Town bank.
- The NHESP letter has not come in yet.
- All the work for the project is outside the priority habitat.
- The plan could be revised to remove phase two of the project (the dune restoration in the habitat) and come back after the NHESP letter is received with an Amended Order request.
- The consultant will remove the discretionary areas of work and submit a revised plan.
- Annual reports should be submitted for three years.

Public comment: None

A motion was made to approve the project subject to receipt of a revised plan removing the discretionary areas and submit annual reports for three years.

Seconded.

Aye –Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

- C. Putnam Property, LLC.** To construct a balcony, two patio areas and a flag pole at 20 Scallop Path, Osterville as shown on Assessor’s Map 070 Parcel 010-002. **Continued from 10/10/2023 for DEP # only. WC Form received.**

The DEP number has not been received.

A continuance was requested to 10/31/2023.

A motion was made to approve the continuance request to 10/31/2023.

Seconded.

Aye –Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

- D. Hamilton Shepley.** Proposed detached two-car garage with attic above at 21 Forest Street, Hyannis Port, as shown on Assessor’s Map 266 Parcel 006-002. **Continued from 10/10/2023 for DEP # only. WC Form received. SE3-6131**

The DEP number has been received.

A motion was made to close the public hearing and authorize staff to issue the Order of Conditions.

Seconded.

Aye –Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

III. MINUTES

- A. September 5, 2023
- B. September 12, 2023
- C. September 19, 2023
- D. October 3, 2023

There was discussion of some changes that were requested to the September 19th and October 3rd minutes.

A motion was made to accept the minutes of September 5, and 12, 2023 as submitted.

Seconded.

Aye –Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

A motion was made to adjourn the meeting.

Seconded.

Aye –Abodeely, Foster, Gilmore, Lee, Hearn, Sampou, Tangney

Nay – none

The time was 7:23 p.m.