



Town of Barnstable Conservation Commission

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MINUTES – CONSERVATION COMMISSION HEARING

DATE: October 31, 2023 @ 6:30 PM

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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 6:32 p.m. by Chair F. P. (Tom) Lee. Also in attendance were: Vice Chair Louise R. Foster, Clerk George Gillmore, Commissioners Hearn and Tangney. Commissioner Abodeely and Sampou were absent.

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

I. OLD AND NEW BUSINESS

A. Commission vote on 2024 Hearing Schedule

A motion was made to approve the 2024 Hearing Schedule.

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

B. Proposed Conservation Restrictions – Commission's review and vote whether to approve as written or edit the following:

1. Wheeler Holly Preserve Conservation Restriction ("CR") - Lot 1, 178 Wheeler Road and part of 150 Wheeler Road, Barnstable, Massachusetts, Barnstable Assessors Map 82, Parcel 11 and Assessors Map 103, Parcel 109, Lot 002 (portion);

2. Wheeler Holly Preserve Conservation Restriction (“CR”) - Lot 3&4, part of 150 Wheeler Road, Barnstable, Massachusetts, Barnstable Assessors Map 103, Parcel 109, Lot 002 (portion), said CR to be held by the Town of Barnstable;

Presented by Barnstable Land Trust Executive Director Janet Milkman, said restrictions to be reviewed and approved by the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs.

Issues discussed:

- The CR has been reviewed by the Town Attorney.
- There were no questions from the Commissioners.

A motion was made to authorize the Chair to prepare an endorsement letter to be presented to Town Council for the CR as proposed.

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

II. REQUESTS FOR DETERMINATION

- A. **Philip Hubbard & Joy Cleveland.** Proposed clearing and grading within 100-feet of Bordering Vegetated Wetland bordering on Great Pond in order to construct a new single family home at 82 Liberty Lane, Marstons Mills as shown on Assessor’s Map 124 Parcel 004-010. **DA-23050**

The applicant was represented by Raul Lizardi, P.E. from Cape & Island Engineering.

- There were no questions from Commissioners.

Public comment: None

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

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

- B. **Tyler Thomas.** Partial demolition of existing building and reconstruction and small addition to existing footprint to construct a two-car garage at 521 Shootflying Hill Road, Centerville as shown on Assessors Map 193 Parcel 049. **DA-23051**

The applicant represented himself.

Issues discussed:

- The orange shading represents shrub swamp wetland.
- Just the edge of the project is within the 100’ foot buffer.
- Darcy approves of the project.

Public comment: None

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

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

C. Lynne A. Vanderslice. Proposed improvements to include a 135 sf addition with a deck on south side of dwelling, a dormer and roof deck on north side and a proposed 20' x 20' shed at 43 Little Island Drive, Osterville as shown on Assessor's Map 093 Parcel 058-006. **DA-23052**

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

- There were no questions from Commissioners.

Public comment: None

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

Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

III. NOTICES OF INTENT

A. Michael P. & Maria A. Sarver. Raze and replace existing single family dwelling at 120 Harbor Bluffs Road, Hyannis as shown on Assessor's Map 325 Parcel 102. **SE3-6132**

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

The revised plan is dated October 27, 2023

Issues discussed:

- There will be approximately 40 x 40 x 2 ft. of fill. It will be under 100 cu. yds.
- Demarcation and a better breakdown of the hardscape was added to the revised plan.
- There will be no mowing in the mitigation area.

Public comment: None

A motion was made to approve the project with the revised plan date of October 27, 2023.

Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

B. William & Krista Murphy. Proposed single family dwelling at 104 Wild Goose Way, Centerville as shown on Assessor's Map 167 Parcel 048. **SE3-6133**

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

Issues discussed:

- The difference between a Town Bank and a State Bank was reviewed.
- The project was reviewed with Conservation staff.
- The bank is steep enough but because of the freshwater wetland adjacent to it, at the bottom. it does not qualify as a Town Bank.
- The freshwater wetland is heavily vegetated.
- Vista pruning may be asked for in the future.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

Aye – Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

- C. Maria G. & Peter J. Smail, Trustees.** To replace walkways and modify existing patio areas to include a landscape wall at 339 Eel River Road, Osterville as shown on Assessor’s Map 115 Parcel 030. **SE3-6136**

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

- There were no questions from Commissioners.

Public comment: None

A motion was made to approve the project as submitted.

Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

- D. Vincent & Jane Perla – Perla Family Trust.** To construct a pool and patio at 29 Little Island Drive, Osterville as shown on Assessor’s Map 093 Parcel 058-005. **SE3-6137**

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

The revised plan date is October 27, 2023.

- There were no questions from Commissioners.

Public comment: None

A motion was made to approve the project with the revised plan dated October 27, 2023.

Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

IV. AMENDED ORDERS

- A. Yuriy & Yelena Matskevich.** Change pier support system from helical piles to concrete blocks at 24 Flume Avenue, Marstons Mills as shown on Assessor’s Map 061 Parcel 032. SE3-5934

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

Issues discussed:

- Commissioner Hearn recused himself. He was recently on the Indian Pond Association Board.

Public comment:

Butch Roberts – 102 Alpine Way. He supports the change and appreciates they understood his concerns. Asks what mechanisms are in place that will make it removed seasonally.

They could be fined if it is left in.

There are docks in the water now that should be removed because they are seasonal. He is concerned that the costs of removing the dock each season is more than the cost of the fine. They will be reluctant to remove it.

The fine and violation process was explained to Mr. Roberts. They can be fined every day the dock remains in the water.

Darcy advised him to call the office if he sees a violation.

Don Webb – 45 Flume Avenue. He had questions about the change and the pilons staying in the lake. He has not seen any other docks using this system. He feels this is going to end up being a permanent pier.

Commissioner Gillmore advised that concrete bases with posts is a common method.

It will be permitted as seasonal.

If he observes it not removed, he should contact the Conservation Office.

A motion was made to approve the Amended Order as proposed.

Seconded.

Aye –Foster, Gilmore, Lee, Tangney

Nay – none

Hearn - abstain

- B. Town of Barnstable-DPW.** Proposed updated construction access and maintenance plan for the Blish Point Stabilization project at 307 and 329 Millway, Barnstable as shown on Assessor’s Map 301 Parcels 064 and 009. SE3-5257. **WC Form received.**

A continuance was requested to November 7, 2023 without testimony.

A motion was made to approve the continuance request without testimony to November 7, 2023.

Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney

Nay – none

V. CONTINUANCES

- 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 Continued from 10/17/23 WC Form received.**

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

A revised plan dated 10/30/23 with some minor changes was submitted.

Issues discussed:

- There was discussion about the amount of hardscape in the 50’- 100’ buffer.
- There are a lot of areas within the 100’ buffer on the property that are not developed and are being left natural.
- There should be a revised plan clearly defining the edge of the lawn and the buffer lines.

Public comment: None

Pamela Kuong – abutter at 390 Wianno Avenue is concerned about the noise from the sports court being used for pickle ball. They are elderly and need to go to sleep early and sleep late. They are very close to the property. They have friends who have had very bad experiences with pickleball courts. A tennis court would be ok or a golf putting green.

It is a neighbor concern, not in Conservation purview.
They can discuss a change with the representative or the owner.

Anthony Giovannone - abutter at 362 Wianno Avenue is against the proposed location of the sports court. The runoff will drain into the salt marsh. There are plenty of other places on the property where a sports court could be built.

A motion was made to approve the project subject to receipt of a revised plan showing the edge of the lawn area.
Seconded.

Aye –Foster, Gilmore, Lee, Hearn, Tangney
Nay – none

B. 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 10/17/2023 for DEP # only. SE3-6135**

The DEP number has been issued.

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

Aye –Foster, Gilmore, Lee, Hearn, Tangney
Nay – none

VI. CERTIFICATES OF COMPLIANCE

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

A. Susan Connolly SE3-5894 (COC ez*) Addition to SFD / Walkways / Patio / Deck
28 Laurel Drive, Centerville Marsh / Bordering Vegetated Wetland

B. John W. Callahan Tr., - Mary Alice Callahan Revocable Trust SE3-5898 (COC, ez*)
Pool / Spa / Pool Patio / Mitigation 222 Clamshell Cove Road, Cotuit Coastal Bank

Louise Foster recused herself on the Callahan matter.

A motion was made to approve A.
Seconded.
Aye –Foster, Gilmore, Lee, Hearn, Tangney
Nay – none

A motion was made to approve B.
Seconded.
Aye – Gilmore, Lee, Hearn, Tangney
Nay - none

A motion was made to adjourn the meeting.
Seconded.
Aye – Foster, Gilmore, Lee, Hearn, Tangney
Nay – none
The time was 7:49 p.m.