



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

Office: 508-862-4093

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

FAX: 508-778-2412

MINUTES – CONSERVATION COMMISSION MEETING

DATE: JUNE 6, 2017 @ 3:00 PM

LOCATION: HEARING ROOM – 367 Main St., 2nd Floor, Hyannis, MA 02601

Scrivener's note: The following minutes are general in nature. For those wanting specific detail on matters heard on this agenda, additional resources are available to you: video-on-demand (free on the Town website at town.barnstable.ma.us), and DVD recordings. Please contact the Conservation Division at 508.862.4093 for assistance.

The meeting was called to order at 6:30 p.m. by Chair F. P. (Tom) Lee. Also attending were Clerk Dennis R. Houle, and Commissioners John E. Abodeely, Peter Sampou (arrived at 3:29 p.m., and Larry Morin. Vice-Chair Louise R. Foster and Commissioner Scott Blazis were away.

Conservation Administrator, Darcy Karle, assisted, along with Martin Wunderly, Conservation Agent.

3:00 PM AGENDA

I CERTIFICATES OF COMPLIANCE

(coc = Certificate of compliance) (ez = no deviations, staff recommends approval) (* = on-going conditions)

- A. **Shallow Pond Professional SE3-4533** (coc, ez) construct office building*
1471 Iyanough Rd./Rte. 132, Hyannis – Shallow Pond **TABLED FROM 2/14/17**

A motion was made to approve the certificate.

Seconded and voted unanimously.

II REVISED PLANS

Project type:

Revision:

- A. **Montgomery SE3-5371** additions, patio regrading; rock wall
94 Holly Point Rd., Centerville

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

A motion was made to approve the revised plan.

Seconded and voted unanimously.

- B. **Samra/Pearson SE3-5323** raze/replace sfd modifications of hardscape
265 Seapuit Rd., Osterville **WITHDRAWN**

The request was withdrawn.

C. **Stratouly (O'Donnell) SE3-5430** pool, patio, cabana authorize flag pole
25 Oyster Way, Oyster Harbors

The applicant was represented by Arlene Wilson, P.W.S.

Issues discussed:

- The flagpole was used by a prior owner, and usually gets removed in the off-season.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

D. **TOB/DPW DA-16033** improve ramp access, etc. extend side deck
997 Craigville Beach Rd., Centerville

The applicant was represented by Mark Marinaccio of the DPW.

Issues discussed:

- The work protocol was reviewed.
- Ms. Karle stated that the project was in Natural Heritage & Endangered Species Habitat (NHESP). She has discussed this with Nina Coleman, Director of Sandy Neck, and the work protocol will address any potential issues with plovers or other fledgling birds.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

E. **Hunter DA-15069** fence, beachgrass, sand replace additional fence
76 Long Beach Rd., Centerville

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

Exhibits:

- A – Photo submitted by John O'Dea with proposed extension indicated by a blue arrow
- B – Photos from Assessors database from 2016 and 2017
- C – GIS aerial photo, 2015

A motion was made to approve the revised plan.

Seconded and voted unanimously.

F. **Surprenant/C.C.Oyster SE3-4400** pier, flupsy, dredging additional shells, etc.
262 Bridge St., Osterville

The applicant was represented by John C. O'Dea, P.E.

A motion was made to approve the revised plan.

Seconded and voted unanimously.

III OPEN DISCUSSION

A. **Conrad Geyser – 64 Old Shore Rd., Cotuit** – Discussion of pre-existing land use, garden plot.

Mr. Geyser was present.

The Commission was concerned with the effect of gardening on the local water quality. The wood chips compost and their decomposition provide potassium to the deficient soils. There should be no change in overall elevation between 1 to 3-year cycles based on the addition of wood chips and leaves.

The matter was noted.

IV ENFORCEMENT ORDERS

- A. **Steven Gould – 24 Old Shore Rd., Cotuit** – Alteration of a resource area, Cotuit Bay, by removing vegetation in wetland buffer and mulching garden plots.

Exhibits:

- A – Photos of mulch and compost
- B – Order of Conditions, restoration planting plan from SE3-1923
- C – Aerial GIS images from 2001 and 2014.

Conrad Geysler and Steven Gould were present.

The Commission requires the mulch pile to be relocated out of the coastal bank/flood zone and buffer area. Storm surge saltwater killed the earlier vegetation buffer. A replanting plan for native species is due within 60 days.

A motion was made to approve the enforcement order as amended.

Seconded and voted unanimously.

- B. **Cape Cod Hotel LLC – 1470 Iyannough Rd., Barnstable** – Cutting trees in buffer to wetland, unnamed pond.

No one attended.

Exhibits:

- A – February, 2017 photos of trees and GIS aerial photo of pond
- B – DA-91038 vista pruning permit

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

- C. **Carvalho, Mateus – 287 Mitchell’s Way, Hyannis** – Alteration of a resource area, Fawcetts Pond, by maintaining unpermitted dock, and mowing vegetation in buffer zone. **TABLED FROM 5/09**

Edward Pesce, P.E. of Pesce Engineering and Associates represented the property owners.

Exhibits:

- A – Photos of dock and mowed groundcover under shrubs.
- B – Certificate of Compliance, site plan, and photos from SE3-4402
- C – 2004 Enforcement Order and hearing minutes.

The Commission provided extra days to submit the notice of intent application for the dock, and may include the pathway and a clearing near the retaining wall.

A motion was made to approve the enforcement order, as amended.

Seconded and voted unanimously.

- D. **Cheever, Charles A. Tr. – 295 Green Dunes Dr., West Hyannisport** – Alteration of a coastal bank and resource area buffer, cutting of vegetation within 50 ft. wetlands.

Robin Wilcox represented the property owners.

Exhibits:

A – Photos of a clearing and cut trees as compared to assessor’s photo and GIS map of the area.

The Commission was concerned with the previous violations at the site. Additional trees for restoration were added to this enforcement order.

A motion was made to approve the enforcement order, as amended.

Seconded and voted unanimously.

E. **Goldberg Barnstable Real Estate Trust – 229 Long Beach Rd., Centerville** – Alteration of a resource area buffer, cutting of vegetation within 50 ft. of coastal dune / barrier beach.

No one attended.

Exhibits:

A – Photos of clearing

B – GIS map of cleared area

The Commission required an adequate amount of trees to be replanted in place of a lost cedar.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

F. **Sanchez, Vivian Tr. – 1036 Main St., Cotuit** – Alteration of a buffer to a resource area, Cotuit, Bay, by removing vegetation in wetland buffer and installing lawn against certificate of compliance.

No one attended.

Exhibits:

A – August, 2015 GIS aerial photo

B – Photos of lawn installed

C – SE3-4743 Certificate of Compliance photos

D – SE3-1936 Certificate of Compliance and approved planting plan.

The Commission was concerned that the restoration effort should be similar to, or more robust than, the previously approved plan for the site.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

G. **Trade Winds Development-A Inc. – 780 Craigville Beach Rd., Centerville** – Failure to obtain Certificate of Compliance. Permit expired. Violation of order of conditions.

Commissioner Larry Morin recused himself.

No one attended.

Exhibits:

A – Photos by Fred Stepanis, Conservation Assistant, dated October, 2016

The Commission was concerned with the response time and required deadlines for submitting the plan for approval.

A motion was made to approve the enforcement order.

Seconded and voted unanimously.

V CITATIONS

A. **Carvalho, Mateus – 287 Mitchell’s Way, Hyannis** – Alteration of a resource area, Fawcetts Pond, by maintaining unpermitted dock, and mowing vegetation in buffer zone. **\$100.00 TABLED FROM 5/9**

Noted

B. **Trade Winds Development-A Inc. – 780 Craigville Beach Rd., Centerville** – Failure to obtain Certificate of Compliance. Permit expired. Violation of order of conditions. **\$300.00**

Noted

4:30 PM AGENDA

VI REQUESTS FOR DETERMINATION

Edward M. Kennedy Institute. Repair to existing coastal stairs and boardwalk at 47 Marchant Ave., Hyannis as shown on Assessor’s Map 286 Parcel 024. **DA-17033 \$13.98**

Dean Fraser represented the applicant.

Issues discussed:

- Mr. Fraser stated that he had heard that the stairs were destroyed during Hurricane Bob
- The Commission was concerned with the lack of historic photos or, at least, of pre-Hurricane Bob photos to support the fact that the stairs existed and this project being filed as an RDA rather than an NOI.
- Mr. Fraser was willing to withdraw the application and file an NOI with an engineering plan.

The project was withdrawn.

VII NOTICES OF INTENT

Melvin Shuman, Tr., 82 Lake Drive Nominee Trust. Landscape amenities including replenishing sand in upland “beach;” installing edging to retain sand; replacing lawn edging; providing beach-access stairs at 82 Lake Dr., Centerville as shown on Assessor’s Map 230 Parcel 081. **SE3-5483 \$23.30**

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

Exhibits:

A – Copy of database page showing ART-0110, and copy of a 1991 NOI application, submitted by Commissioner Morin

Issues discussed:

- Conservation jurisdiction, when there is not a BVW, was set at 34.0 elevation NGVD (1929) back in 1973
- Discussion regarding what data was used for the survey work, NAVD88, how a calculation is done.
- Ms. Wilson had provided the Commission with photos (attached to a June 5, 2017) of people enjoying a beach, as documentation of a pre-existing beach from at least the 1960’s.
- The question raised was why the beach was not indicated on the plan submitted under ART-0100. Also, why no request had been made for beach nourishment under an NOI application. The Commission wondered whether this should be a concern for the Commission during the current application review.
- A question raised was whether the beach was abandoned because it had not been maintained.
- Ms. Wilson stated that the beach was maintained regularly fifteen years ago.
- Ms. Wilson stated that less than half of the beach, appearing in the 1960’s photo, is being requested to be nourished. A total of 675 sq. ft. is being requested for nourishment.

- The Commission is concerned with stone edging being proposed along the water's edge of the beach and the stone steps
- Ms. Karle requested whether the invasive purple loosestrife, currently growing on the site, could be removed.
- A request to have beach frontage reduced further (smaller than 60')
- A request was made for demarcation of the beach

A motion was made to approve the project with the following finding: A pre-existing beach was documented at least from the 1960's and the proposed beach nourishment is smaller than the earlier beach. Approval is subject to submission of a revised plan eliminating the proposed steps and stone edging from the water's edge; 2) removal of existing purple loosestrife; 3) indications of dimensions for the beach; 4) indication of the light post; and 5) addition of a row of natural shrubs 5-feet in width, landward of the existing stone revetment.

Seconded and voted unanimously.

15 Cove Point Lane LLC. Replacement/relocation of existing in-ground pool and patios; update landscaping at 15 Cove Point Ln., Marstons Mills as shown on Assessor's Map 076 Parcel 071. **SE3-5482 \$13.98**

Commissioner John Abodeely recused himself.

The applicant was represented by Atty. Mike Ford and Griffin Boden of Atlantic Design.

Exhibit A – 2012 aerial photo

Issues discussed:

- The project does not propose further hardscape or expansion of lawn in the 50-foot buffer.
- During a site visit, a small disturbance consisting of a brushed area in the 50-foot buffer was noticed, and this area shall be allowed to grow back.
- A flush-cut stump was noticed during a site visit.
- A tree will be replaced for the cut stump, in consultation with staff.

A motion was made to approve the project, as submitted, with special conditions to include: 1) that the brushed area near the top of the bank be allowed to re-grow; and 2) one canopy species tree be replaced, in consultation with staff .

Seconded and voted unanimously.

John Burns/Leary Family FP, LLC. Construct 3-bedroom single-family dwelling to include appurtenances at 12 South Cedar Rd., Centerville as shown on Assessor's Map 186 Parcel 039-003. **SE3-5484 \$13.98**

The applicant was represented by Kieran Healy of BSC Group.

Issues discussed:

- The abutter owns the shed.
- Darcy requested that the calculations for mitigation be reviewed because, during her site visit, she noticed natural vegetation already exists within the edges of the proposed mitigation area. Mr. Healy indicated that the survey was done a couple of years ago, so vegetation might have grown up.
- A clarification was made: no work is proposed outside of the indicated work limit line. There are some existing dirt and bare areas between the 50' and the 100' buffer. If, in the future, the applicant desires a lawn between the 50' and the 100' buffer, it would require a revised plan submission.

A motion was made to approve the proposed project with special conditions, subject to the applicant confirming dimensions of the mitigation area with staff.

Seconded and voted unanimously.

VIII OLD & NEW BUSINESS

- A. Proposed fee changes for certain filings, requests, etc. made under the Town of Barnstable Code, Chapter 237 – Wetlands:

Notice of Intent (NOI)

Proposed Ch. 237 fees

Category 1 (additions, pools etc.) = \$200
Category 2 (houses, beach nourishment etc.) = \$300

Request for Determination of Applicability (RDA)

General = \$175
Vista Pruning = \$225

Certificate of Compliance

Initial docketing = \$125

Revised Plan = \$50*

*Note: Any revised plan request or request for amended order shall also be assessed applicable project fees

Administrative Review = \$25

After the fact filings = Twice the filing fee of an RDA, NOI

Issues discussed:

- Darcy reviewed the revisions to the fee schedule being proposing. The fees have not been revised since 2009.
- If approved, the revised fee schedule would go into effect July 1, 2017
- One new fee category is proposed: Administrative Review fee of \$25.00
- Ten other towns on the Cape currently have an administrative review fee in place
- Darcy explained that a document entitled “Administrative Review Procedure” would be posted on the Town website, along with the revised fee schedule. Staff will be sending out a notification to consultants.
- The proposed revised fees are based on a cost analysis completed by the Division.
- A brief discussion took place regarding the difficulty of trying to raise fees based on full cost recovery, which was supported by the Town Council several years ago. The expectation of basing fee increases on full cost recovery would make permits for the average person cost-prohibitive. Clerk Chairman Houle mentioned that based on history, the cost recovery in the Conservation Division is extremely low, approximately 10%
- Conservation Division is proposing the fee increases to support a decision package to hire an additional staff person in FY2019.

A motion was made to approve the proposed revised fee schedule, as recommended by staff, to go into effect July 1, 2017

Seconded and voted unanimously.

A motion was made to adjourn.

Seconded and voted unanimously.

The time was 5:54 p.m.